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NEW YORK CITY CONSOLIDATION

ACT OF 1882.

A N . A C T

TO

CONSOLIDATE INTO ONE ACT AND TO DECLARE

THE

Special and Local Laws

AFFECTING

PUBLIC INTERESTS

IN THE

CITY OF NEW YORK,

BEING

CHAPTER 410 OF THE LAWS OF 1882.

NEW YORK:

C. G. BURGONNE, PRINTER, 29 ROSE STREET.

1882.

Buffalo Historical Society 9-24-40 D

NOTE.

At the time that the following act was reported by the Committee in the Assembly, I caused some extra copies to be printed, and, in response to numerous inquiries, some of them are now placed on sale.

Chapter 410 of the Laws of 1882 takes effect on March 1, 1883, and will, from that date, substantially supersede a large mass of special and local legislation relating to the City of New York, which may be roughly described under the following heads:

First, the laws as to the powers, duties and liabilities of all officers and departments of the City Government, including the provisions contained in what is commonly known as "the Charter;" *second*, the laws as to all courts and local officers, and officers exercising their powers specially in this city, though not technically officers of the City Government; *third*, as to taxation, assessments, opening and closing streets, changing grades, &c.; *fourth*, as to piers, wharfage and the waters of the harbor; *fifth*, as to fences, auctions, amusements, buildings, tenement and lodging houses, fires and their prevention; *sixth*, as to immigration, pilotage, the portwardens, protection of sailors, &c.; *seventh*, as to births, deaths, health, duties of physicians, &c.; *eighth*, as to elections, mechanics' liens, &c.; *ninth*, as to crimes and procedure; *tenth*, as to the commitment of children and others to charitable or reformatory societies and institutions.

This act is the result of much careful labor. In 1879, by chapter 536, the Legislature provided for a compilation of the laws which form its basis. The corporation counsel, Mr. William C. Whitney, Mr. Peter B. Olney and myself became commissioners under that act and prepared a Compilation, which was presented to the Legislature in 1880 in two printed volumes, containing nearly 2,200 pages. By chapter 595, of the Laws of

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that year, this Compilation was declared to contain, presumptively, all special and local laws affecting public interests in force in the City of New York on January 1, 1880, and as such was authorized to be cited in the Courts.

Under chapter 594, of the same year, the same persons were constituted commissioners "to revise all the special or local laws affecting public interests in the City of New York which shall be in force at the time such commissioners shall make their final report, or at such time prior thereto as said commissioners shall find advisable. In making such revision the said commissioners shall not make any change in the meaning of existing laws, but shall seek to simplify and to mould into consistent acts all existing statutes upon matters embraced in such special and local laws. They shall not include, in such revision, any special acts relating to corporations or societies, except such as are entitled to receive money from the city, or those to whose care children or criminals are, under existing laws, committed."

In May, 1881, the commissioners submitted to the Legislature a draft of the revision in a large volume, in which the draft and the acts upon which it was based were printed upon facing pages.

The Legislature of that year, by chapter 537, expressly repealed several hundred acts and parts of acts which the commissioners had, in the preparation of the compilation of 1880, treated as repealed, or in effect superseded.

By chapter 572, of the Laws of the same year, the commissioners were directed to report to the Legislature of eighteen hundred and eighty-two their final draft, incorporating therein the legislation of 1881. The present act embodies that final draft.

There was passed, in 1813, "an act to reduce several laws relating particularly to the City of New York into one act." That is, I believe, the only authorized attempt ever made to consolidate the public acts relating to the City of New York. The late Hon. Henry E. Davies in 1855 prepared a "Compilation of the Laws of the State of New York, relating particularly to the City of New York." In 1862 Mr. Valentine, the Clerk of the Board of Aldermen, prepared a work under the same title. Hon. Murray Hoffman published in 1865 a "Digest of charters, stat-

utes, and ordinances of and relating to the Corporation of the City of New York." Though each of these works was published at the expense of the city, and prepared at the request of its authorities, none of them ever had, I believe, any statutory recognition. It therefore remains true that the Act of 1813 was, before the passage of the Act of 1882, the last authorized consolidation and revision of the laws relating to this city.

In submitting their draft to the Legislature of 1881, the Commissioners said:

"This act [of 1880] requires, it will be perceived, that we shall not make any change in the meaning of existing laws, but shall seek to simplify and to mould into consistent acts all existing statutes upon matters embraced in 'the Special or Local Laws affecting Public Interests in the City of New York.' We have endeavored strictly to conform to this provision, though, of course, we have had sometimes to adopt one of two or more possible constructions of a statute or statutes. * * * We have not changed the language except where it seemed necessary in combining together two or more provisions, or where the nature of the case absolutely required it. The consequence is, of course, that there is not that uniformity of style and expression which would be found if we were preparing a new statute; but both the law under which we act and our own judgment lead us to prefer this course rather than to run any unnecessary risk of changing the meaning of existing statutes. * * * We have treated some laws as obsolete, without being able to point to the specific act which supersedes them, but we have done this so sparingly that we may perhaps have exposed ourselves to the criticism of having exhumed dead and forgotten laws. We preferred this course rather than to run the risk of omitting what is really useful and operative. Subject to this explanation, we have revised only what may be called the active laws—that is, those under which something remains to be done, either constantly or at some time or times—while we have omitted laws which were temporary in their purpose, and laws which, though the basis of the existing order of things—the foundation of existing rights—seem not properly the subject of revision, as nothing affirmative remains to be done under them. Such omitted laws embrace those which define the location of

existing streets and parks and the lines of the water-front, which authorize the issue of bonds where the authority has been fully exercised, which authorize the erection of buildings or public improvements which have been fully completed, which give the city its interest in real estate, and other similar acts. They, like many general laws of the State, are necessary to be referred to from time to time, but, as we have said, do not seem the proper subjects of revision. Indeed, a revision of some of them would tend to do harm rather than good. There are various State laws, more or less general in their terms, which, however, find their chief application in this city and its vicinity. Such are the laws as to quarantine, emigration, harbor masters and shore inspector. We have inserted nothing on the subject of quarantine, but have included those parts of the laws relating to the other subjects above mentioned which are, in terms, confined to the city in their application. We have treated as coming within the scope of our duties certain acts applicable to the cities of the State generally, but we have not included the general laws which apply to the local officers of the city equally with other portions of the State, as the Surrogate, County Clerk and District Attorney."

The marginal references show the chapter and section on which each new section is based. The word "Comp." refers to the "Compilation of the Special and Local Laws affecting Public Interests in the City of New York, in Force on January 1, 1880," prepared, as already stated, under chapter five hundred and thirty-six of the Laws of eighteen hundred and seventy-nine.

It will be observed that the Act contains no provision expressly repealing the laws and parts of laws believed to be superseded by it. The result is that so far as anything has been omitted which ought to have been inserted, the provision omitted can still be resorted to; while this act is, of course, conclusive as to what is expressly inserted in it. It is intended after a time to advise the passage of a law expressly repealing all prior provisions on subjects embraced in this act.

A printed copy of the act, specially prepared to avoid engrosser's errors, was presented to and signed by the Governor. But by an error of the binder, page 669 was not only inserted in its

proper place but was as passed also inserted in place of page 699; the intended page 699 being omitted. The error will, of course, be corrected before the act goes into effect; and in order that these copies may be finally corrected I have inserted both the proper page 699 and the one wrongly included. After the error shall have been corrected by legislature it will be easy to tear out the latter.

GEORGE BLISS.

LAWS OF 1882,

CHAPTER 410.

AN ACT

TO CONSOLIDATE INTO ONE ACT AND TO DECLARE
THE SPECIAL AND LOCAL LAWS AFFECTING
PUBLIC INTERESTS IN THE CITY OF NEW
YORK.

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

CHAPTER I.

BOUNDARIES OF CITY AND COUNTY AND OF WARDS.

§ 1. The city and county of New York shall contain the islands called Manhattan Island, North Brothers Island, Great Barn or Ward's Island, Little Barn or Randall's Island, Manning's or Blackwell's Island, Nutton or Governor's Island, Bedlow's Island, Bucking or Ellis Island, and the Oyster islands; and also all the territory which formerly constituted the towns of Morrisania, West Farms, and Kingsbridge, in the county of Westchester, being all the territory which lies westerly of the centre of the Bronx river, and southerly of a line commencing in the centre of the Bronx river at latitude $40^{\circ} 53' 59.23''$ north, and longitude $73^{\circ} 51' 35.97''$ west of Greenwich, and running on a straight line westerly to a point on the low water mark of the eastern bank of the Hudson river at latitude $40^{\circ} 54' 53.31''$ north,

Boundaries of
city

1 R. S. ch. 2, title 7, § 2, Comp. 110; 1 R. S. ch. 1, title 1, § 1, Comp. 111; 1873, ch. 613, § 1, as re-enacted 1874, ch. 329, § 1, Comp. 111; 1 R. S. ch. 2, title 4, § 5, Comp. 111; 1846, ch. 279, § 1, 2, Comp. 111; 1856, ch. 210, Comp. 122, 1 R. S. ch. 2, title 4, § 5, Comp. 113; 1873, ch. 35, § 2, Comp. 113; 1873, ch. 873, § 1, 2, 3, Comp. 114; 1873, ch. 34, § 1, Comp. 115.
1881, ch. 478.
19 Johns. 175.
179.

and longitude $73^{\circ} 54' 38\frac{64}{100}''$ west of Greenwich, and thence westerly in a straight line to the west bounds of the State; together with all the land under water within the following bounds: beginning at Spuyten Duyvil Creek, where the low water mark of the northern bank thereof intersects the low water mark on the eastern bank of the Hudson river and running thence along said creek at low water mark on the northern side thereof to the Harlem river, thence along the low water mark on the eastern bank thereof, to the Bronx Kills; thence along the low water mark on the northern bank thereof to the low water mark of the northwestern shore of Long Island Sound, thence along the low water mark of the northwestern and northern shore of Long Island Sound to the mouth of the Bronx river at Hunt's Point; thence along the low water mark as far as the same may extend in the Bronx river, and the mouth thereof to the low water mark of Long Island Sound at the western side of Clausson's Point; thence across Long Island Sound to College Point on Nassau or Long Island to low water mark there, thence southwesterly across Flushing Bay to low water mark at Sanford's Point between Flushing and Bowery bays; including Great Barn or Ward's Island, and Little Barn or Randall's Island; then along Nassau or Long Island shore, at low water mark, and including Manning's or Blackwell's Island, to the south side of the Red Hook; then across the North river so as to include Nutton or Governor's Island, Bedlow's Island, Bucking or Ellis Island, and the Oyster islands, to the west bounds of the State, and thence northerly along the west bounds of the State to the junction with the above-mentioned prolongation westerly of the northern boundary line of the city and county of New York, from the low water mark on the eastern bank of the Hudson river; thence easterly along said line to the easterly bank of the Hudson river at low water mark, thence southerly along said easterly bank, at low water mark, to the point or place of beginning.

See 1834, ch. 8,
Comp. 115

1 R. S. ch. 2,
title 5, §1,
Comp. 120.
New York.

§ 2. The city of New York contains all that part of this State comprehended within the bounds of the county of New York, and is divided into twenty-four wards, in the manner following, that is to say:

First ward.

The first ward shall begin in the middle of Broadway, at a point where it is intersected by the middle of Liberty street, and run from the said point of intersection, through the middle of Liberty street, southeasterly, to the middle of Maiden lane; then down the middle of Maiden Lane, and from thence in a straight line running in the same direction across the East river, to low water mark on Nassau or Long Island; and thence along Nassau or Long Island shore, at low water mark, to the south side of

Red Hook; and then across Hudson river, so as to include Nutten or Governor's Island, Bedlow's Island, Bucking or Ellis Island, and the Oyster islands, and all the waters of this State in the bay of New York, and to the southward thereof, and which are not comprehended in any other county, to low water mark on the west side of Hudson river, or so far as the bounds of this State extend; then up along the west side of Hudson river, at low water mark, or along the limits of this State, to a place due west from the middle of the west end of Liberty street; then to the middle of Liberty street; then through the middle of Liberty street to the middle of Broadway, at the place of beginning.

§ 3. The second ward shall begin at the southeasterly corner of the first ward, and run thence along the easterly bounds thereof, across the East river to the middle of Broadway; then up the middle of Broadway to a point opposite the middle of Park row; then through the middle of Park row to a point opposite to the middle of Spruce (formerly George) street; then down the middle of Spruce street to the middle of Gold street; then through the middle of Gold street to a point opposite to the middle of Ferry street; then through the middle of Ferry street, in a line running in the same direction across the East river to Nassau or Long Island, to low water mark; then along Nassau or Long Island, at low water, to the place of beginning.

1 R.S. ch. 2, title 5, § 1, Comp. 120.
Second ward.

§ 4. The third ward shall begin on the west side of Hudson river, at the northwesterly corner of the first ward, and running thence due east to the middle of Liberty street; then through the middle of Liberty street to the middle of Broadway; then through the middle of Broadway to a point opposite to the middle of Reade street; then through the middle of Reade street, in a line running in the same direction across Hudson river, to low water mark, on the west side thereof, or so far as the bounds of the State extend; then down the west side of Hudson river, at low water mark, or along the limits of this State, to the place of beginning.

Id.
Third ward.

§ 5. The fourth ward shall begin at the northerly corner of the second ward, and run thence through the middle of Chat-ham street, to a point opposite to the middle of Catharine street; and then through the middle of Catharine street, in a line running in the same direction across the East river, to low water mark, on Nassau or Long Island; then along Nassau or Long Island shore, at low water mark, to the bounds of the second ward; and then northwesterly along the bounds of the second ward, to the place of beginning.

Id.
Fourth ward.

§ 6. The fifth ward shall begin at the northwesterly corner of the third ward, and run thence along the northerly bounds

Id. § 1, Comp. 121.
Fifth ward.

thereof, to the middle of Broadway; then through the middle of Broadway to the middle of Canal street; then through the middle of Canal street to Hudson river; then due west to low water mark, on the west side of Hudson river, or so far as the bounds of this State extend; then down along the west side of Hudson river, at low water mark, or along the limits of this State, to the place of beginning.

1 R.S. ch. 2, title
5, §1, Comp. 122.
Sixth ward.

§ 7. The sixth ward shall begin at a point in the middle of Broadway, where it is intersected by the middle of Canal street, and run thence through the middle of Canal street to where it is intersected by the middle of Centre street; then through the middle of Centre street to the middle of Walker street; then through the middle of Walker and Canal streets to the middle of the Bowery road; then through the middle of the Bowery road to the middle of Chatham street; then through the middle of Chatham street and Park row to the middle of Broadway, and then through the middle of Broadway to the place of beginning.

Id.
Seventh ward.

§ 8. The seventh ward shall begin at the southeasterly corner of the fourth ward, and run thence along the easterly boundary of the fourth ward to the middle of Division street; then through the middle of Division street to the middle of Grand street; then through the middle of Grand street, in a line running in the same direction across the East river, to low water mark on Nassau or Long Island; then along Nassau or Long Island shore, at low water mark, to the place of beginning.

Id.
Eighth ward.

§ 9. The eighth ward shall begin at the northwesterly corner of the fifth ward, and run thence along the northerly bounds of the said ward through Canal street to the middle of Broadway; then through the middle of Broadway to a point opposite to the middle of Houston street; then through the middle of Houston street to a point opposite to the middle of West Houston street; then through the middle of West Houston street to Hudson river; then due west to low water mark, on the west side of Hudson river, or so far as the limits of this State extend; then down along the west side of Hudson river, at low water mark, or along the limits of this State, to the place of beginning.

Id.
1882, ch. 56, §§1, 2,
Comp. 123.
Ninth ward.

§ 10. The ninth ward shall begin at the northwesterly corner of the eighth ward, and run thence along the northerly bounds of the said ward through the middle of West Houston street to the middle of Hancock street; thence northerly through the middle of Hancock street to the middle of Bleecker street; thence northwesterly through the middle of Bleecker street to the middle of Carmine street; thence northeasterly through the middle of Carmine street to the middle of Sixth avenue; thence northerly through the middle of Sixth avenue to the middle of West

Fourteenth street ; thence westerly through the middle of West Fourteenth street to Hudson river ; then due west to low water mark on the west side of Hudson river ; or so far as the limits of this State extend ; then down along the west side of Hudson river, at low water mark, or along the limits of this State, to the place of beginning.

§ 11. The tenth ward shall begin at a point in the middle of the Bowery road, opposite to the middle of Division street; then through the middle of Division street to the middle of Norfolk street ; then through the middle of Norfolk street to the middle of Rivington street; then through the middle of Rivington street to the middle of the Bowery road; then through the middle of the Bowery road to the place of beginning.

1 R.S. ch.2, title 5, §1, Comp. 122.
Tenth ward.

§ 12. The eleventh ward shall begin at a point in the middle of Rivington street, where Clinton street intersects Rivington street; and run thence through the middle of Clinton street to the middle of Avenue B, and then northerly through the middle of Avenue B to the middle of Fourteenth street ; thence easterly through the middle of East Fourteenth street to the East river, and thence running across the East river to low water mark on Long Island ; then along Long Island shore, at low water mark, to a point, opposite the middle of the easterly end of Rivington street ; then in a direct line across the East river through the middle of Rivington street, to the place of beginning.

Id.
1837, ch.16, §§1,2, Comp. 124.
Eleventh ward.

§ 13. The twelfth ward shall include all that part of the city and county of New York lying northerly of a line running through the middle of Eighty-sixth street from the East to the North river, and south and west of Harlem river and Spuyten Duyvil creek, but including Randall's and Ward's Islands.

1 R.S. ch. 2, title 5, §1, Comp. 122.
1836, ch.49, §§1,2, Comp. 123.
1850, ch. 187, §§1, 2, Comp. 125.
Twelfth ward.

§ 14. The thirteenth ward shall begin at the northeasterly corner of the seventh ward, and thence along the easterly and northerly line of the said ward through the middle of Grand and Division streets, to the middle of Norfolk street; thence through the middle of Norfolk street to where it is intersected by the middle of Rivington street; then through the middle of Rivington street in a line running in the same direction across the East river, to low water mark on Nassau Island; and then along the shore of said island, at low water mark, to the place of beginning.

1 R.S. ch. 2, title 5, §1, Comp. 122.
Thirteenth ward.

§ 15. The fourteenth ward shall begin at a point in the middle of the Bowery road, where it is intersected by the middle of Walker street; then through the middle of the Bowery road to a point opposite the middle of Houston street; then through the middle of Houston street to where it is intersected by the middle of Broadway; thence through the middle of Broadway to where

Id.
Fourteenth ward

it is intersected by the middle of Canal street; and then through the middle of Canal, Centre, and Walker streets, being along the northerly bounds of the sixth ward, to the place of beginning.

1832, ch. 56, §§1, 2,
Comp. 123.
Fifteenth ward.

§ 16. The fifteenth ward shall begin at a point in the middle of Fourteenth street where the middle of Sixth avenue intersects the middle of Fourteenth street, and run thence southerly through the middle of Sixth avenue to the middle of Carmine street; thence southwesterly through the middle of Carmine street to the middle of Bleecker street; thence southeasterly through the middle of Bleecker street to the middle of Hancock street; thence southerly through the middle of Hancock street to the middle of Houston street; thence easterly through the middle of Houston street to the middle of the Bowery road; thence northerly along the middle of the Bowery road and the middle of Fourth avenue to the middle of Fourteenth street, and thence westerly along the middle of Fourteenth street to the place of beginning.

1836, ch. 49, §§1, 2,
Comp. 123.
1846, ch. 16, §§1, 2,
Comp. 124.
1851, ch. 453, §§1,
2, Comp. 125.
Sixteenth
ward.

§ 17. The sixteenth ward shall begin at the northwesterly corner of the fifteenth ward, at a point in the middle of Fourteenth street where the middle of Sixth avenue intersects the middle of Fourteenth street, and run thence along the middle of Fourteenth street to Hudson river; thence westerly and along the northerly boundary of the ninth ward to low water mark on the west side of Hudson river, or so far as the limits of this State extend; thence northerly along the west side of Hudson river, at low water mark, or along the limits of this State, to a point opposite the middle of the westerly end of Twenty-sixth street; thence in a direct line across Hudson river through the middle of Twenty-sixth street to the middle of Sixth avenue, and thence southerly along the middle of Sixth avenue to the place of beginning.

1837, ch. 16, §1,
Comp. 124.
Seventeenth
ward.

§ 18. The seventeenth ward shall begin at a point formed by the intersection of the middle of Fourteenth street with the middle of Avenue B, and run thence southerly along the middle of Avenue B to Houston street; thence across Houston street to the middle of Clinton street; thence through the middle of Clinton street to middle of Rivington street; thence westerly through the middle of Rivington street to the middle of the Bowery road; thence northerly along the middle of the Bowery road and Fourth avenue to the middle of Fourteenth street; and thence easterly along the middle of Fourteenth street to the place of beginning.

1846, ch. 16, §§1,
2, Comp. 124.
1853, ch. 282, §§1,
2, as amended

§ 19. The eighteenth ward shall begin at a point formed by the intersection of the middle of Fourteenth street with the middle of Sixth avenue, and run thence northerly along the middle

of Sixth avenue to the middle of Twenty-sixth street; thence easterly along the middle of Twenty-sixth street in a line running in the same direction across the East river to low water mark on Long Island; thence along Long Island shore, at low water mark, to a point opposite the middle of the easterly end of Fourteenth street; and thence in a direct line across the East river through the middle of Fourteenth street to the place of beginning.

1853, ch. 348, §1.
Comp. 126.
Eighteenth ward.

§ 20. The nineteenth ward shall begin at a point formed by the intersection of the middle of Fortieth street with the middle of Sixth avenue, and run thence northerly along the middle of Sixth avenue to the centre of Fifty-ninth street; thence in a line running in the same direction across Central park to the middle of Eighty-sixth street; thence easterly along the middle of Eighty-sixth street in a line running in the same direction across the East river to low water mark on Long Island; thence along Long Island shore, at low water mark, to a point opposite the middle of the easterly end of Fortieth street; and thence in a direct line across the East river along the middle of Fortieth street to the place of beginning.

1850, ch. 187, §§1, 2, Comp. 125.
1853, ch. 448, §§1, 2, Comp. 126.
Nineteenth ward.

§ 21. The twentieth ward shall begin at a point formed by the intersection of the middle of Twenty-sixth street with the middle of Sixth avenue, and run thence westerly along the middle of Twenty-sixth street to Hudson river; thence westerly along the northerly boundary of the sixteenth ward to low water mark on the west side of Hudson river, or so far as the limits of the State extend; thence northerly along the west side of Hudson river, at low water mark, or along the limits of this State, to a point opposite the middle of the westerly end of Fortieth street; thence in a direct line across Hudson river, through the middle of Fortieth street to the middle of Sixth avenue, and thence southerly along the middle of Sixth avenue to the place of beginning.

1851, ch. 433, §§1, 2, Comp. 125.
Twentieth ward.

§ 22. The twenty-first ward shall begin at a point formed by the intersection of the middle of Twenty-sixth street with the middle of Sixth avenue, and run thence northerly along the middle of Sixth avenue to the middle of Fortieth street; thence easterly along the middle of Fortieth street, in a line running in the same direction across the East river, to low water mark on Long Island; thence along Long Island shore, at low water mark, to a point opposite the middle of the easterly end of Twenty-sixth street, and thence in a direct line across the East river, through the middle of Twenty-sixth street, to the place of beginning.

1853, ch. 282, §§1, 2, Comp. 126.
Twenty-first ward.

§ 23. The twenty-second ward shall begin at a point formed by the intersection of the middle of Fortieth street with the

1853, ch. 448, §§1, 2, Comp. 126.
Twenty-second ward.

middle of Sixth avenue, and run thence westerly along the middle of Fortieth street to Hudson river; thence westerly along the northerly boundary of the twentieth ward to low water mark on the west side of Hudson river; or so far as the limits of the State extend; thence northerly along the west side of Hudson river, at low water mark, or along the limits of this State, to a point opposite the middle of the westerly end of Eighty-sixth street; thence in a direct line across Hudson river, through the middle of Eighty-sixth street, to the middle of Sixth avenue, and thence southerly along the middle of Sixth avenue to the place of beginning.

1873, ch. 613, §3,
as amended.
1874, ch. 829, §3,
Comp. 771;
1886, ch. 210,
Comp. 113.
Twenty-third
ward.

§ 24. The twenty-third ward shall include all that territory which lies east and north of Harlem river and south of a line beginning at a point on the southerly side of the High bridge across the Harlem river; thence running easterly on a straight line to a point on Mill brook, directly opposite to the line formerly dividing Central Morrisania from Lower Morrisania, being the former northerly line of Lower Morrisania; thence easterly along said last-mentioned line to a point one hundred and forty feet east of Franklin avenue, and thence on a line produced eastwardly by the extension of the middle of the main channel of the Bronx river of that portion of said last-mentioned line which lies between the Third avenue and said point in said line, one hundred and forty feet east of Franklin avenue, said territory being the whole of the former town of Morrisania, and a portion of the former town of West Farms. It shall also include North Brothers Island.

1881, ch. 478, §2,
1873, ch. 613, §3,
1874, ch. 829, §3,
Comp. 771.
Twenty-fourth
ward.

§ 25. The twenty-fourth ward shall embrace all that territory lying north of the twenty-third ward and south of the north boundary of the city, comprising the territory embraced in the former town of Kingsbridge, and in that portion of the former town of West Farms not included in the twenty-third ward.

CHAPTER II.

THE CORPORATE POWERS AND THEIR DISTRIBUTION.

§ 26. The corporation now existing and known by the name of the mayor, aldermen and commonalty of the city of New York as formed by the consolidation of the county of New York with the body previously known by the name of the mayor, aldermen and commonalty of the city of New York, by the act passed April 30, 1874, entitled "An act to consolidate the government of the city and county of New York, and further to regulate the same," shall continue to be a body politic and corporate, in fact and in name, by the same name, and have perpetual succession, with all the rights, property, interests, claims, demands, grants, powers and privileges heretofore held by the mayor, aldermen and commonalty of the city of New York, and not modified or repealed by the provisions of this act.

1873, ch. 225, §1.
1874, ch. 304, §1.
Comp. 139, 135.

Corporate
powers.
4 Abb. 35.

§ 27. For all purposes the local administration and government of the city and county of New York shall continue to be in and be performed by the corporation aforesaid. All charges and liabilities now existing against said county, or which may hereafter arise or accrue in said city and county of New York, and which, but for this act, or the act entitled "An act to consolidate the government of the city and county of New York, and further to regulate the same, passed April 30, 1874, would be charges against or liabilities of said county, shall be deemed and taken to be charges against or liabilities of said corporation, and shall be defrayed or answered unto by it. All bonds, stocks, contracts and obligations of the said county, and of the board of supervisors which now exist as legal obligations, shall be deemed such of and against the said corporation, and all such that may be authorized or required to be hereafter issued or entered into shall be issued or entered into by and in the name of the said corporation. Nothing in this section contained shall be construed to affect the election or appointment of county officers whose election or appointment is provided for by the constitution of this State, or any other purposes for which the city and county of New York is recognized in the constitution as one of the counties of this State.

The local ad-
ministration to
be performed
by the corpora-
tion.

Charges and li-
abilities against
county to be
city charges.
Bonds, etc.

1874, ch. 304, §2.
Comp. 136.

1874, ch. 305, §1.
Comp. 136.

§ 28. All funds and moneys which, on the thirteenth day of April, 1874, were or now are held by or payable to any officer as county treasurer of the said city and county shall be deemed to be held by or payable to him solely as the funds and moneys

1874, ch. 304, §4.
Comp. 136.
Funds held by
any officer as
county treas-
urer.

of said corporation, except such funds and moneys as shall be held by and payable into the treasury of the State of New York.

1873, ch. 335, §2,
Comp. 139.
Id., §4.
As amended.
1873, ch. 400, §1.
Comp. 139.

§ 29. The legislative power of the said corporation shall continue to be vested in a board of aldermen, consisting of twenty-two members, who shall be elected at the general state election in each year. Three of such aldermen shall be elected in a district composed of the territory embraced in the First, Second, Third, Fourth, Fifth, Sixth, Seventh, Thirteenth and Fourteenth wards of said city. Three of such aldermen shall be elected in a district composed of the territory embraced in the Eighth, Ninth, Fifteenth and Sixteenth wards of said city. Three of such aldermen shall be elected in a district composed of the territory embraced in the Eleventh, Tenth and Seventeenth wards of said city. Three of such aldermen shall be elected in a district composed of the territory embraced in the Eighteenth, Twentieth and Twenty-first wards of said city. Three of such aldermen shall be elected in a district composed of the territory embraced in the Twelfth, Nineteenth and Twenty-second wards of said city. One of such aldermen shall be elected in a district composed of the territory embraced in the Twenty-third and Twenty-fourth wards of said city. Six of said aldermen, to be known as aldermen-at-large, shall be elected from the entire city. No voter shall vote for more than four of the aldermen-at-large. In the districts from which three aldermen are to be elected, no voter shall vote for more than two of such aldermen. The aldermen shall be residents of the respective districts from which they are elected. The term of office of the aldermen shall be one year, and such term shall commence at noon on the first Monday in January next succeeding their election. Any vacancy which may occur in the board of aldermen shall be filled by election by said board by a vote of a majority of all the members elected to said board, and the person so elected to fill any such vacancy shall serve for the unexpired portion of the term. The board of aldermen shall constitute the common council, and, except as otherwise specially provided, shall exercise the legislative powers of the said city.

Vacancy.

When board of aldermen to constitute common council, etc.

1873, ch. 335, §19,
Comp. 157.

Executive power.
1873, ch. 335, §20,
Comp. 157.
Mayor, election of, etc.

1873, ch. 335, §21,
Comp. 157.
When pres-

§ 30. The executive power of the corporation shall be vested in the mayor and the officers of the departments.

§ 31. The mayor shall be the chief executive officer of the corporation; he shall be elected at a general State election, and hold his office for the term of two years, commencing at noon on the first day of January next after his election.

§ 32. Whenever the mayor shall be under suspension, or there shall be a vacancy in the office of mayor, or whenever, by

reason of sickness or absence from the city, he shall be prevented from attending to the duties of his office, the president of the board of aldermen shall act as mayor, and possess all the rights and powers of mayor during such suspension, disability, or absence. In case of a vacancy he shall so act until noon of the first Monday of January succeeding the election at which a successor is chosen. At the next general election which shall take place more than ten days after the occurrence of a vacancy in the office of mayor, a successor shall be chosen who shall hold for the unexpired term. It shall not be lawful for the president of the board of aldermen, when acting as mayor, in consequence of the sickness or absence from the city of the person elected, to exercise any power of appointment to or removal from office, unless such sickness or absence of the mayor shall have continued ten days, nor to sign, approve, or disapprove any ordinance or resolution, unless such sickness or absence shall have continued the same period.

dent of board
of aldermen to
act as mayor.

Not to exercise
the appointing
power, etc.

§ 33. In case of a vacancy in the office of mayor, the aldermen may elect a temporary chairman to preside over their meetings, who shall possess, during such vacancy, the powers and perform the duties of the president of the board, and who shall, during such time, be a member of every board of which the president of said board of aldermen is a member by virtue of his office.

1873, ch. 335, § 22,
Comp. 158.
Temporary
chairman.

§ 34. There shall be the following other departments in said city:

1873, ch. 335, § 20,
Comp. 159.
1881, ch. 307, § 1,
City department.

Finance department.
Law department.
Police department.
Department of public works.
Department of public charities and correction.
Fire department.
Health department.
Department of public parks.
Department of taxes and assessments.
Department of docks.
Department of street cleaning.

§ 35. The head of the finance department shall be called the comptroller of the city of New York, and shall unless sooner removed hold his office for four years, and until his successor shall be appointed and has qualified.

1873, ch. 335, § 30,
Comp. 72, 168.
Comptroller,
term of office
of.

§ 36. The head of the law department shall be called counsel to the corporation, and shall unless sooner removed hold his office for four years, and until his successor shall be appointed and has qualified.

1873, ch. 335, § 27,
Comp. 75, 237.
Counsel to the
corporation.

§ 37. The head of the police department shall be called the

1873, ch. 335, § 39,
Comp. 76, 240.

Head of police department.

board of police. Said board shall consist of four persons, to be known as police commissioners of the city of New York, who shall, unless sooner removed, respectively hold their offices for six years and until their successors shall be respectively appointed and have qualified.

1873, ch. 335, §70,
Comp. 83, 282.
Commissioner
of public works.

§ 38. The head of the department of public works shall be called "commissioner of public works," and shall unless sooner removed hold his office for four years, and until his successor shall be appointed and has qualified.

1873, ch. 335, §74,
Comp. 85, 335.
Board of chari-
ties and correc-
tion.

§ 39. The head of the department of public charities and correction shall be called the board of public charities and correction. Said board shall consist of three persons, to be known as commissioners of public charities and correction. The commissioners shall unless sooner removed respectively hold their offices for six years and until their successors shall be respectively appointed and have qualified.

Their term of office.

1873, ch. 335, §76,
Comp. 86, 379.
Fire commis-
sioners.

§ 40. The head of the fire department shall be called the board of fire commissioners. Said board shall consist of three persons, to be known as fire commissioners of the city of New York, who shall, unless sooner removed, respectively hold their offices for six years, and until their successors shall be respectively appointed and have qualified.

1873, ch. 335, §80,
Comp. 87, 423.
Board of health.

§ 41. The head of the health department shall be called the board of health. Said board shall consist of the president of the board of police, the health officer of the port, and two officers, to be called commissioners of health, one of whom shall have been a practicing physician, for not less than five years preceding his appointment. The commissioner of health, who is not a physician, shall be the president of the board, and shall be so designated in his appointment. The commissioners of health shall, unless sooner removed, respectively hold their offices for six years and until their successors shall be respectively appointed and have qualified.

1873, ch. 335, §84,
As amended,
1874, ch. 300, §2,
Comp. 89, 492.
Organization of
board

§ 42. The head of the department of public parks shall be called the board of parks. Said board shall consist of four members, who shall be known as commissioners of parks, and who shall, unless sooner removed, respectively hold their offices for five years and until their successors shall be respectively appointed and have qualified.

1873, ch. 335, §87,
Comp. 90, 555.
Commissioners
of taxes and
assessments.

§ 43. The head of the department of taxes and assessments shall be called the board of taxes and assessments. Said board shall consist of a president, who shall be so designated in his appointment, and two persons, who shall be called commissioners of taxes and assessments. They shall, unless sooner removed, respectively hold their offices for six years and until their successors shall be respectively appointed and have qualified.

§ 44. The head of the department of docks shall be called the board of docks. Said board shall consist of three persons, who shall be residents of said city, and shall, unless sooner removed, respectively hold their offices for six years and until their successors shall be respectively appointed and have qualified.

1873, ch. 335, §88,
Comp. 90, 727.
Department of
docks.

§ 45. The head of the department of street cleaning shall be called the commissioner of street cleaning, and shall, unless sooner removed, hold his office for six years, and until his successor shall be appointed and has qualified.

1881, ch. 367, §1.
Department of
street cleaning.

CHAPTER III.

GENERAL PROVISIONS, POWERS, AND LIMITATIONS APPLICABLE TO DEPARTMENTS AND OFFICERS.

§ 46. A majority of the members of a board in any department of the city government, and also of the board for the revision and correction of assessments, shall constitute a quorum to fully perform and discharge any act or duty authorized, possessed by, or imposed upon any department or any board aforesaid, and with the same legal effect as if every member of any such board aforesaid had been present, except as herein otherwise specially provided. Each board may, except as herein otherwise provided, choose, in its own pleasure, one of its members, who shall be its president, and one who shall be its treasurer, and may appoint a chief clerk or secretary. No expense shall be incurred by any of the departments, boards or officers thereof, unless an appropriation shall have been previously made covering such expense, nor any expense in excess of the sum appropriated in accordance with law.

1873 ch. 335, §89,
Comp. 90.
Majority con-
stitute quorum
of boards, etc.

3 Daly, 448; 7
Rob. 200; 33 N.
Y. 208; 60 id. 358.
No expenditure
beyond appro-
priation.
1873, ch. 335, §112.

§ 47. It shall be the duty of the heads of all departments of said city, and of all boards and officers charged with the duty of expending or incurring obligations payable out of the moneys raised by tax in said city, so to regulate such expenditures for any purpose or object, that the same shall not in any one year exceed the amount appropriated by the board of estimate and apportionment for such purpose or object; and no charge, claim, or liability shall exist or arise against said city for any sum in excess of the amount appropriated for the several purposes.

1880, ch. 521, §4.
expenses not to
Exceed amount
appropriated.

§ 48. The heads of all departments (except as otherwise herein specifically provided) shall have power to appoint and remove all chiefs of bureaus (except the chamberlain), as also all clerks, officers, employees, and subordinates in their respective departments, except as herein otherwise specially provided,

1873, ch. 335, §28.
Comp. 70.

Heads of departments to appoint and remove clerks, etc.
 72 N. Y. 445; 16 Hun, 309;
 73 N. Y. 437.
 Removals to be for cause.
 23 Hun, 317.

Duties of clerks, etc.

without reference to the tenure of office of any existing appointee. But no regular clerk or head of a bureau shall be removed until he has been informed of the cause of the proposed removal, and has been allowed an opportunity of making an explanation; and in every case of a removal, the true grounds thereof shall be forthwith entered upon the records of the department or board. In case of removal, a statement, showing the reason therefor, shall be filed in the department. The number and duties of all officers and clerks, employees, and subordinates in every department, except as otherwise herein specifically provided, with their respective salaries, whether now fixed by special law or otherwise, shall be such as the heads of the respective departments shall designate and approve; but subject, also, to the revision of the board of estimate and apportionment; provided, however, that the aggregate expense thereof shall not exceed the total amount duly appropriated to the respective departments for such purposes. Any head of department may, with the consent of the board of estimate and apportionment, consolidate any two or more bureaus established by law, and may change the duties of any bureau; and it shall be the duty of the head of the finance department to bring together all officers and bureaus authorized to receive money for taxes, assessments or arrears, in such manner that the payment of the same can be made, as nearly as practicable, at one time and place, and in one office.

1873, ch. 335, § 27.
 Comp. 70.
 To report quarterly to mayor.

§ 49. The said departments shall, once in three months, and at such other times as the mayor may direct, make to him, in such form and under such rules as he may prescribe, reports of the operations and action of the same and each of them, which reports shall be published in the City Record. The said department shall always, when required by the mayor, furnish to him such information as he may demand, within such reasonable time as he may direct.

1873, ch. 335, § 107.
 Comp. 97.
 Heads of department (except police) to furnish certified copies of papers, etc.

§ 50. The heads of all departments, except the police department, and the chiefs of each and every bureau of said departments, or any of them, except the police department, shall, with reasonable promptness, furnish to any taxpayer desiring the same a true and certified copy of any book, account, or paper kept by such department, bureau, or officer, or such part thereof as may be demanded, upon payment in advance of five cents for every hundred words thereof by the person demanding the same. All books, accounts, and papers in any department or bureau thereof, except the police department, shall at all times be open to the inspection of any taxpayer, subject to any reasonable rules and regulations in regard to the time and manner of such inspection as such department, bureau or officer

Books, etc., to be opened for inspection.

may make in regard to the same, in order to secure the safety of such books, accounts, and papers, and the proper use of them by the department, bureau, or officer. In case such inspection shall be refused, such taxpayer, on his sworn petition, describing the particular book, account, or paper that he desires to inspect, may, upon notice of not less than one day to such department, bureau, or officer, apply to any justice of the supreme court for an order that he be allowed to make such inspection as such justice shall by his order authorize, and such order shall specify the time and manner of such inspection.

§ 51. In every department or board there shall be kept a record of all its transactions, which shall be accessible to the public, and once a week a brief abstract, omitting formal language, shall be made of all transactions, and of all contracts awarded and entered into for work and material of every description, which abstract shall contain the name or names, and residences by street and number, of the party or parties to the contract, and of their sureties, if any. A copy of such abstract shall be promptly transmitted to the person designated to prepare the City Record, and shall be published therein. Notice of all appointments and removals from office, and all changes of salaries, shall, in like manner, within one week after they are made, be transmitted to and published in the City Record.

1873, ch. 335, § 110,
Comp. 99.
Records to be
kept and
abstracts
published.

Notice of ap-
pointments, etc.,
to be published.

§ 52. The annual salaries to be paid to persons herein named, and elected or appointed to the several specified positions, shall, from and after their entrance upon their duties, be as follows, and such salaries shall be in full for all services rendered by them to the city or county in any capacity whatever;

1880, ch. 521, § 2.
Salaries.

To the mayor, ten thousand dollars.

To the comptroller, ten thousand dollars.

To the commissioner of public works, eight thousand dollars.

To the corporation counsel, twelve thousand dollars, and all legal costs collected by him shall be paid into the treasury of the city.

To the commissioners of police, five thousand dollars each.

To the president of the department of parks, five thousand dollars.

To the commissioners of the department of parks, other than the president, nothing.

To the commissioners of the fire department, five thousand dollars each.

To the commissioners of the department of public charities and correction, five thousand dollars each.

To the corporation attorney, the public administrator, and the attorney for the collection of arrears of personal taxes, four thousand dollars each.

To the attorney for the fire department, four thousand dollars.

To the president of the health department five thousand dollars.

To the commissioner of the health department, other than the president, four thousand dollars.

To the president of the board of aldermen, three thousand dollars.

To the members of the board of aldermen, other than the president, two thousand dollars each.

To the president of the department of taxes and assessments, five thousand dollars.

To the commissioners of the department of taxes and assessments, other than the president, four thousand dollars.

To the commissioners of the department of docks, three thousand dollars each.

1881, ch. 307, §1.

To the commissioner of street cleaning, six thousand dollars.

To the commissioners of accounts, appointed by the mayor, two thousand dollars each.

Subordinate salaries limited.

No subordinate in any department shall receive a salary in excess of the highest salary paid to the head of the department, except that the chief engineer of docks and the superintendent of police may each receive a salary not exceeding six thousand dollars.

1873, ch. 335, §116, Comp. 103. Annual salaries

But there shall continue to be paid to the persons who held the following specified positions on May 28, 1880, during the remainder of the terms then held by them, so long as they retain the same, annual salaries as follows, which shall be in full for all services rendered by them to the city or county, in any capacity whatever:

To the commissioners of police, six thousand dollars each.

To the commissioners of parks, other than the president, nothing.

To the president of the health department, six thousand five hundred dollars.

To the commissioner of health, other than the president, five thousand dollars.

To the commissioners of taxes and assessments, five thousand dollars each.

To the commissioners of accounts, appointed by the mayor, three thousand dollars each.

1873, ch. 335, §93, Comp. 92. Certificates of appointment.

§ 53. Every person who shall be appointed or elected to any office under the said city shall receive a certificate of appointment, designating the term for which such person has been appointed or elected.

1873, ch. 335, §94, Comp. 92. Official oath.

§ 54. Every person elected or appointed to any office under the city government shall, within five days after notice of such elec-

tion or appointment, take and subscribe, before the mayor or any judge of a court of record, an oath or affirmation faithfully to perform the duties of his office; which oath or affirmation shall be filed in the office of the mayor.

§ 55. Any person holding office, whether by election or appointment, who shall, during his term of office, accept, hold, or retain any other civil office of honor, trust, or emolument under the government of the United States (except commissioners for the taking of bail, or register of any court), or of the State (except the office of notary public or commissioner of deeds, or officer of the national guard), or who shall hold or accept any other office connected with the government of the city of New York, or who shall accept a seat in the legislature, shall be deemed thereby to have vacated every office held by him under the city government. No person shall hold two city or county offices, except as expressly provided in this act; nor shall any officer under the city government hold or retain an office under the county government, except when he holds such office ex-officio, by virtue of an act of the legislature; and in such case he shall draw no salary for such ex-officio office.

§ 56. No officer of the city government, except the city marshals, shall have or receive to his own use any fees, perquisites, or commissions, or any percentage; but every such officer shall be paid by a fixed salary, and all fees, percentages, and commissions received by any such officer shall be the property of the city. And every officer who shall receive any fees, perquisites, commissions, percentages, or other money which should be paid over to the city, shall, before he shall be entitled to receive any salary, make under oath a detailed return to the comptroller, showing the amount of all such fees, commissions, percentages, perquisites, and moneys received by him since the last preceding report, the person from whom received, and the reason for its payment, and shall produce the receipt of the chamberlain, showing the payment to him, by said officer, of the aggregate amount thereof. All sums received as above, or for licenses or permits, except as in this act otherwise expressly provided, shall be paid over weekly, without deduction by the officers or department receiving them, to the chamberlain, and a detailed return under oath shall at the time be made in such form as the comptroller shall prescribe, stating when and from whom, and for what use such moneys were received. No officer or person who is paid a salary for his services from the city treasury and who entered upon his office since May 28, 1880, or shall hereafter enter upon his office, shall receive to or for his own use any fees, costs, allowances, perquisites of office, commissions, percentage, or moneys paid to him in his official capacity; but all fees, costs,

1873, ch. 325, § 114
Comp. 104.
Officer not to
hold either
State or federal
offices.
49 How. 206; 42
N. Y. Supr. 481;
58 N. Y. 595;
73 Id. 535; 67
Id. 456; 6 Hun,
182; 68 N. Y.,
413.

1873, ch. 336, § 96,
as amended
1873, ch. 757, § 16.
Comp. 92.
No officer to
receive fees to
his own use.
8 Hun, 370;
21 Hun, 453;
1871, ch. 742, § 14.
1880, ch. 521, § 2.

Officers
receiving
salaries not to
receive to
their own use
any fees, etc.
1880, ch. 521, § 2.

Return of to be
made before
salary is paid.

allowances, perquisites, commissions, percentages, and moneys so paid or received by any such officer or person, shall be the property of the city and shall be paid by him into the city treasury; and every such officer or person who shall receive any fees, perquisites, commissions, percentages, or other moneys which belong to the city, and should be so paid into the treasury, shall, before he shall be entitled to receive or be paid his salary, make under oath a detailed statement and return to the comptroller, in such form as he may prescribe, showing the amount of all such moneys received by him since the last preceding statement and returns, and shall produce a receipt showing the payment of such sum into the treasury. The comptroller may require any such person or officer to make such statement and return to him, if it be not made as herein provided; and may examine any such officer or person under oath touching the amount of any fees, costs, allowances perquisites, commissions, percentages, or moneys paid to or received by him in his official capacity.

1873, ch. 335, §95,
Comp. 92.
Penalty for
frauds upon
city, etc.
13 Hun, 395.

§ 57. Any officer of the city government, or person employed in its service, who shall wilfully violate or evade any of the provisions of law, or commit any fraud upon the city, or convert any of the public property to his own use, or knowingly permit any other person so to convert it, or by gross or culpable neglect of duty allow the same to be lost to the city, shall be deemed guilty of a misdemeanor, and, in addition to the penalties imposed by law, and on conviction, shall forfeit his office, and be excluded forever after from receiving or holding any office under the city government; and any person who shall wilfully swear falsely in any oath or affirmation required by this chapter shall be guilty of perjury.

1873, ch. 335, §100,
Comp. 93.
Bribery, etc.,
how punished.

§ 58. Every person who shall promise, offer, or give, or cause, or aid, or abet in causing to be promised, offered, or given, or furnish, or agree to furnish, in whole or in part, to any other person, to be promised, offered, or given to any member of the common council, or any officer of the corporation, or clerk, after his election or appointment as such officer, member, or clerk, or before or after he shall have qualified and taken his seat, or entered upon his duty, any moneys, goods, right in action, or other property or anything of value, or any pecuniary advantage, present or prospective, with intent to influence his vote, opinion, judgment, or action on any question, matter, cause, or proceedings which may be then pending, or may by law be at any time brought before him in his official or clerical capacity, shall be deemed guilty of a felony, and shall, upon conviction, be imprisoned in a penitentiary for a term not exceeding two years, or shall be fined not exceeding five thousand dollars, or both, in the discretion of the court. Every officer in this section enumerated,

who shall accept any such gift, or promise, or undertaking to make the same under any agreement or understanding that his vote, opinion, judgment, or action shall be influenced thereby, or shall be given in any question, matter, cause, or proceeding then or at any time pending, or which may by law be brought before him in his official capacity, shall be deemed guilty of a felony, and shall, upon conviction, be disqualified from holding any public office, trust, or appointment under the city of New York, and shall forfeit his office, and shall be punished by imprisonment in the penitentiary not exceeding two years, or by a fine not exceeding five thousand dollars, or both, in the discretion of the court. Every person offending against either of the provisions of this section shall be a competent witness against any other person offending in the same transaction, and may be compelled to appear and give evidence before any grand jury, or in any court, in the same manner as other persons; but the testimony so given shall not be used in any prosecution or proceeding, civil or criminal, against the person so testifying.

Offenders
competent
witnesses.

§ 59. No member of the common council, head of department, chief of bureau, deputy thereof or clerk therein, or other officer of the corporation, shall be or become, directly or indirectly, interested in or in the performance of any contract, work, or business, or the sale of any article, the expense, price, or consideration of which is payable from the city treasury, or by any assessment levied by any act or ordinance of the common council; nor in the purchase or lease of any real estate or other property belonging to or taken by the corporation, or which shall be sold for taxes or assessments, or by virtue of legal process at the suit of the said corporation. If any person in this section mentioned shall, during the time for which he was elected or appointed, knowingly acquire an interest in any contract or work with the city, or any department or officer thereof, unless the same shall be devolved upon him by law, he shall, on conviction thereof, forfeit his office, and be punished as for a misdemeanor. All such contracts in which any such person is or becomes interested shall, at the option of the comptroller, be forfeited and void. No person in this section named shall give, or promise to give, any portion of his compensation, or any money or valuable thing, to any officer of the city, or to any other person, in consideration of his having been or being nominated, appointed, elected, or employed as such officer, agent, clerk, or employee, under the penalty of forfeiting his office and being forever disqualified from being elected, appointed, or employed in the service of the city, and shall, on conviction, be punished for a misdemeanor.

1873, ch. 396, § 101
Comp. 94.
Officers of the
corporation not
to be interested
in contracts,
etc.
23 N. Y. 218; 3
Hun. 661;
62 N. Y. 636.

Penalty.

Not to give any
portion of com-
pensation to
another in con-
sideration of
appointment,
etc.

§ 60. Any alderman, commissioner, head of department,

1873, ch. 335, § 109,
Comp. 98.

Summary examination of officers.

Subject of inquiry.

To give pertinent answers, and produce books, etc.

Witnesses may examine.

Powers of justice.

Costs.

Examination to be reduced to writing and filed.

chief of bureau, deputy thereof or clerk therein, or other officer of the corporation or person, may, if a judge shall so order, be summarily examined upon an order to be made on application based on an affidavit of the mayor or of the comptroller, or any five aldermen, or any commissioner of accounts, or of any five citizens who are taxpayers, requiring such examination, and signed by any justice of the supreme court of the first judicial department, directing such examination to be publicly made at the chambers of said court, or at the office of said department, on a day and hour to be named, not less, however, than forty-eight hours after personal service of said order. Such examination shall be confined to an inquiry into any alleged wrongful diversion or misapplication of any moneys or fund, or any violation of the provisions of law, or any want of mechanical qualifications of any inspectorship of public work, or any neglect of duty in acting as such inspector, or any delinquency charged in said affidavit touching the office or the discharge or neglect of duty, of which it is alleged in the application for said order that such alderman, head of department, or other aforementioned officer or persons, has knowledge or information. Such alderman, commissioner, head of department, clerk or other aforementioned officer or person shall answer such pertinent questions relative thereto, and produce such books and papers in his custody or under his control, as the justice shall direct, and the examination may be continued from time to time, as such justice may order, but the answer of the party charged shall not be used against him in any criminal proceeding; provided, however, that for all false answers on material points he shall be subject to the pains and penalties of the crime of perjury. The proceedings may be continued before any other justice in said district, and other witnesses, as well as the parties making such application, may, in the discretion of said justice, be compelled to attend and be examined touching such alleged delinquencies. Such justice may punish any refusal to attend such examination or to answer any questions pursuant to his order, as for a contempt of court, and shall have as full power and authority to enforce obedience to the order or directions of himself or any other justice, as any justices of the supreme court may now have, or shall possess, to enforce obedience or to punish contempt in any case or matter whatever, and shall impose costs upon those promoting such an examination, not exceeding two hundred and fifty dollars, if he thinks there was no probable cause for making the application hereinbefore provided for, the said costs to be paid to the officer or person examined, and for which the said officer or person may have judgment and an execution. The examination hereinbefore provided for shall be reduced to writ-

ing, and be filed in the office of the county clerk of the county of New York, and be at all reasonable times accessible to the public, and notice of the same be given to the department in which said officer is employed.

§ 61. No money belonging to the city, or city and county of New York, raised by taxation upon the property of the citizens thereof, shall be appropriated in aid of any religious or denominational school, neither shall any property, real or personal, belonging to said city, or said city and county, be disposed of to any such school, except upon the sale thereof at public auction, after the same has been duly advertised, at which sale such school shall be the highest bidder, and upon payment of the sum so bid into the city treasury; neither shall any property belonging to the city, or city and county, be leased to any school under the control of any religious or denominational institution, except upon such terms as city property may be leased to private parties after the same has been duly advertised.

2873, ch. 335, §73.
As amended.
1873, ch. 757, §10.
Comp. 85.
Moneys, how
used.

§ 62. All property sold other than land under water shall be sold at auction, after previous public notice, under the superintendence of the appropriate head of department. The proceeds of all sales made under and by virtue of this act shall, except as herein otherwise specially provided, be by the officer receiving the same immediately deposited with the chamberlain; and the account of sales, verified by the officer making the sales, shall be immediately filed in the office of the comptroller.

Property to be
sold at auction.
1873, ch. 335, §92.
Comp. 92.

§ 63. Except for repairs no patented pavement shall be laid and no patented article shall be advertised for, contracted for, or purchased, except under such circumstances that there can be a fair and reasonable opportunity for competition, the conditions to secure which shall be prescribed by the board of estimate and apportionment.

16 Hun, 380.
Proceeds of
sales
1873, ch. 335, §115.
as amended,
1873, ch. 757, §22.
Comp. 105.

§ 64. All contracts to be made or let for work to be done or supplies to be furnished, except as in this act otherwise provided, and all sales of personal property in the custody of the several departments or bureaus shall be made by the appropriate heads of departments under such regulations as now exist or shall be established by ordinances of the common council. Whenever any work is necessary to be done to complete or perfect a particular job, or any supply is needful for any particular purpose, which work and job is to be undertaken or supply furnished for the corporation, and the several parts of the said work or supply shall together involve the expenditure of more than one thousand dollars, the same shall be by contract, under such regulations concerning it as shall be established by ordinance of the common council, excepting such works now in progress as

Patented
pavements, etc.
1873, ch. 335, §91.
Comp. 91.
Contracts for
work or sup-
plies, etc.
1 Hun., 30; 63 N.
Y. 239; 75 N. Y.
388; 17 Hun.
518; 2 id. 301; 65
Barb. 331; 10 N.
Y. 504; 1 Daly.
102; 60 N. Y. 303.
33 N. Y. 309; 20
id. 312; 10 Abb.
144; 19 How. 153.
When work,
etc., must be by
contract. See
75 N. Y. 388;
19 Hun. 470;
57 How. 500.
Contracts must
be founded on
sealed bids, etc.
1881, ch. 306.

Bids to be publicly opened.

1881, ch. 147, §2.

1873, ch. 335, §989, Comp. 93.
Defaulters to city not to be awarded contracts, etc.
1873, ch. 335, §92, Comp. 92.

1881, ch. 147, §1.
Proposals to be advertised.

are authorized by law or ordinance to be done otherwise than by contract, and unless otherwise ordered by a vote of three-fourths of the members elected to the common council; and all contracts shall be entered into by the appropriate heads of departments, and shall, except as herein otherwise provided, be founded on sealed bids or proposals, made in compliance with public notice duly advertised in the City Record, said notice to be published at least ten days; if the head of department shall not deem it for the interests of the city to reject all bids he shall, without the consent or approval of any other department or officer of the city government, award the contract to the lowest bidder, the terms of whose contract shall be settled by the counsel to the corporation as an act of preliminary specification to the bid or proposal, and who shall give security for the faithful performance of his contract in the manner prescribed and required by ordinance; and the adequacy and sufficiency of this security shall, in addition to the justification and acknowledgment, be approved by the comptroller. All bids or proposals shall be publicly opened by the officers advertising for the same and in the presence of the comptroller, but the opening of the bids shall not be postponed if the comptroller shall, after due notice, fail to attend. If the lowest bidder shall neglect or refuse to accept the contract within five days after written notice that the same has been awarded to his bid or proposal, or if he accepts but does not execute the contract and give the proper security, it shall be readvertised and relet as above provided. In case any work shall be abandoned by any contractor, it shall be readvertised and relet by the head of the appropriate department, in the manner in this section provided. No bid shall be accepted from, or contract awarded to, any person who is in arrears to the corporation upon debt or contract, or who is a defaulter, as surety or otherwise, upon any obligation to the corporation. Every contract, when made and entered into, as before provided for, shall be executed in duplicate, and shall be filed in the department of finance; a receipt for each payment, made on account of or in satisfaction of the same, shall be indorsed on the said contract by the party receiving the warrant, which warrant shall be only given to the person interested in such contract, or his authorized representative. No expenditure for work or supplies involving an amount for which no contract is required shall be made, except the necessity therefor be certified to by the head of the appropriate department, and the expenditure has been duly authorized and appropriated.

§ 65. Whenever proposals for furnishing supplies, or doing work are invited by advertisement by any department or officer, such department or officer is authorized and directed to require,

as a condition precedent to the reception or consideration of any proposal, the deposit with such department or officer of a certified check upon one of the national banks of the said city, drawn to the order of the comptroller, or of money (such checks or money to accompany the proposal) to an amount not less than three nor more than five per cent. of the amount of the bond required by the department or officer for the faithful performance of the work proposed to be done or supplies to be furnished. Within three days after the decision as to who is the lowest bidder, the comptroller shall return all the deposits made to the persons making the same, except the deposit made by the lowest bidder for any contract; and if the said lowest bidder shall refuse or neglect within five days after due notice that the contract has been awarded, to execute the same, the amount of deposit made by him shall be forfeited to and retained by the said city as liquidated damages for such neglect or refusal, and shall be paid into the sinking fund of the said city, but if the said lowest bidder shall execute the contract within the time aforesaid, the amount of his deposit shall be returned to him.

Deposit to accompany bid.

Return of deposits to unsuccessful bidders, etc.

§ 66. There shall be published daily (Sundays and legal holidays excepted), under a contract to be made as hereinafter provided, a paper to be known as the City Record. The mayor, corporation counsel and commissioner of public works shall appoint a proper person, together with such assistants as may be required, to supervise the preparation and publication of the same, and they shall also fix the rates of compensation of said supervisor and his assistants. All the expenses connected with its publication and distribution, except the salary of the person appointed to supervise the same, and the salaries of his assistants, shall be covered by a contract for printing, to be made in the same manner as other contracts. The board of estimate and apportionment shall provide for all the necessary expenses of conducting the said City Record. There shall be inserted in said City Record nothing aside from such official matters as are expressly authorized. The contract for the publication of the City Record shall provide for furnishing, free of charge, to the city not more than one thousand copies thereof, also for a gratuitous distribution to every newspaper regularly printed in the city of New York, when it shall apply for the same, of two copies, and to every public library or public institution in said city which shall apply for the same, of one copy. Copies of the same shall be sold by the publisher at a price to be fixed by the officers making the contract, and the proceeds thereof shall be paid over to the city. All advertising required to be done for the city, except as in this act otherwise specially provided, and all

1873, ch. 333, § 111, Comp. 99.
See 1873, ch. 323, § 4, Comp. 831.
City Record, publication of.
Expenses of.

Distribution of

Sale of.

Advertisements
to be published
in other papers.

1873, ch. 738, §3,
Comp. 164.
Of publication
of advertise-
ments.

Unauthorized
advertising not
to be paid for.

1873, ch. 335, §16,
Comp. 142.
City Record to
be bound and
certified, and to
be evidence.

1881, ch. 706, §2.
Supervisor to
arrange names
by districts.

To print and
publish same in
City Record.

notices required by law or ordinance to be published in corporation papers, shall be inserted, at the public expense, only in the City Record, and a publication therein shall be a sufficient compliance with any law or ordinance requiring publication of such matters or notices; but there may be inserted in two morning and two evening and two weekly papers published in the English language, and in one newspaper published in the German language, all in said city, to be designated by the mayor, corporation counsel and commissioner of public works, annually, brief advertisements calling attention to any contracts intended to be awarded, or bonds to be sold, and referring for full information to said City Record. But nothing herein contained shall prevent the publication elsewhere of any advertisement required by law; provided, however, that no such publication shall be made unless the same is authorized by a concurrent vote of the mayor, corporation counsel, and commissioner of public works. No money shall be paid from the city treasury for advertising done after April thirtieth, eighteen hundred and seventy-three, except such as is herein authorized, and no action shall be maintained or judgment obtained against the city for any advertising done after such date, except such as is herein authorized. The copies of the City Record furnished to the city shall be distributed to the several departments and officers, and to such persons and in such manner as the mayor shall direct. The comptroller shall cause a continuous series of the City Record to be bound, as completed quarterly, and to be deposited, with his certificate thereon, in the office of the register of deeds of the city and county of New York, in the county clerk's office, and in the office of the clerk of the board of aldermen, and copies of the contents of any part of the same, certified by such register, county clerk, or clerk of the said board, shall be received in judicial proceedings as prime facie evidence of the truth of the contents thereof.

§ 67. It shall be the duty of the supervisor of the City Record to cause the lists of registered voters, made and delivered by the chairmen of the boards of inspectors of election to the captains of police, and by them delivered to him, to be arranged by assembly districts and by election districts of assembly districts, commencing with the first, and in such manner that the names of all registered voters residing at any given number of any street shall appear together, and those of each street in each election district shall appear arranged by house numbers, in consecutive order, each street separately. And as soon as the entire registry of voters shall be completed, and the copies thereof made and delivered, the said supervisor shall forthwith cause the same to be printed and published in the City Record, and in.

the form and manner herein prescribed; and such publication shall be made within eighty-four hours after the close of each annual registration. The registry of each assembly district shall be printed separately as a supplement to the City Record, and each supplement containing the registry of one assembly district shall be sold separately to persons wishing to purchase the same at not less than five cents per copy. All money received therefor shall be paid into the city treasury and applied toward the payment of the cost of such publication.

Assembly districts separately.

§ 68. All printing for said city, including the printing of the City Record, shall be executed and all stationery shall be supplied, under contracts, to be entered into by the mayor, corporation counsel, and commissioner of public works. All proposals for printing and stationery shall be based upon specifications to be filed in the department of public works, which shall set forth with accuracy the number of every description of printed blanks; also each description of stationery or blank books in ordinary use in the board of aldermen and the respective departments, and likely to be required during the year for which such contract is to be given; and the bids shall be given for such number of each printed description of blanks, or of each article of stationery (including under the head of stationery, letter or writing paper, or envelopes, with printed headings or indorsements) as are specified, and for such additional number as may be required, giving the price for blanks of every description, and the price of all other printing "per thousand ems," or for "rule and figure work;" separate contracts shall be made with the the lowest bidder for any one description of printing, or any article of stationery involving an expense of more than five hundred dollars. Ten per cent. of the amount becoming due, from time to time, shall be withheld by the comptroller until the completion of the contract; and in case the contractor shall fail to fulfil the same to the satisfaction of the mayor, corporation counsel, and commissioner of public works, then they may declare said contract to be annulled, and they shall immediately give notice for other bids for such printing during the remainder of the term of contract. No judgment shall be recovered against the city for printing or stationery done or furnished after April thirtieth, eighteen hundred and seventy-three, unless done or furnished under a contract where, under the provisions of chapter three hundred and thirty-five of the laws of eighteen hundred and seventy-three, or of this act, a contract was or is necessary, or under a valid contract, or unless upon evidence of a contract made as provided in this section. Separate contracts may be made at any time for engraving, lithographing, woodcuts, maps, or other picture work, as the same may be required;

1873, ch. 333, §111, As amended. 1875, ch. 631, §1. Comp. 100.

Contract for printing City Record. Stationery and blanks.

Ten per cent. on contract to be withheld.

Separate contracts for engravings, maps, etc.

but nothing herein contained shall be construed to require a separate contract for each engraving, lithograph, or woodcut, or map, unless the officers aforesaid shall deem the same advisable for the interest of the city. No more than one thousand copies of any message of the mayor, or report of any head of a department, and no more than five hundred copies of any report of a committee of the board of aldermen, shall be printed, apart from the City Record. Neither the work known as the Manual of the Common Council nor any similar work shall be printed at the public expense; but there shall be published in the City Record, within the month of January in each year, a list of all subordinates employed in any department (except laborers), with their salaries and residences by street numbers, and all changes in such subordinates or salaries shall be so published within one week after they are made. It shall be the duty of all heads of departments to furnish to the person appointed to supervise the publication of the City Record, everything required to be inserted therein. The said person shall have the power to make requisitions in writing upon the heads of departments to furnish the information necessary to make up such list according to rules prescribed by him and approved by the comptroller; and such information must be supplied by the department within ten days after such requisition. He shall have power to require such information in the same manner, every three months, and all other information in the control of said heads of departments, necessary to perform his duties under this section. He shall include in his list the number of laborers, designating the department in which they are employed, and, if practicable, the numbers employed in the prosecution of specific work, and the amounts paid to them. He shall also cause to be printed in each issue of said City Record a separate statement of the hours during which all public offices in the city are open for business, and at which each court regularly opens and adjourns as well as of the places where such offices are kept and such courts are held. The detailed canvass of votes, at every election, shall be published in the City Record. A list of the registered plumbers shall be published in the City Record at least once in each year. The mayor may order the insertion of any official matter or report in the City Record. Nothing herein contained shall apply to any printing or supplies of stationery for the mayor, aldermen, and commonalty of the City of New York, where, by the concurrent vote of the mayor, counsel to the corporation, and commissioner of public works, it shall be decided to have such printing done or such stationery furnished without contract let after advertisement for bids or proposals, but in such cases such printing shall be done and such stationery procured in the manner and on such

Copies of messages and reports limited.

City manual.

List of all officers and subordinates to be published yearly.

Powers of supervisor of City Record.

What to be published.

See 1872, ch. 675, §90.
As amended.
1873, ch. 823, §4.
1881, ch. 430, §2

Printing and stationery.

terms and conditions as the said officers shall deem to be for the best interests of the city.

§ 69. The commissioner of public works, in conjunction with the mayor and comptroller, is authorized from time to time to contract for lighting the streets, avenues, piers, parks, and places of the city with gas or other illuminating material by one or more contracts to be let at public lettings, as provided by law, for a period of one year, or any part of a year, and commencing and terminating at any dates the said board may determine. The care and maintenance of such lamps shall be under the supervision of the commissioner of public works. Provided, always, that the department of public parks shall have exclusive authority to decide when and where any new lamps shall be put and lighted in any of said parks or places under its control.

1873, ch. 335, §73.
1878, ch. 125, §1.
As amended.
1879, ch. 478,
Comp. 163.
Lighting
streets,
avenues, etc.

Care and main-
tenance of
lamps.

CHAPTER IV.

LEGISLATIVE DEPARTMENT.

§ 70. A majority of the board of aldermen shall constitute a quorum. The comptroller, the commissioner of public works, the corporation counsel, and the president of each department shall be entitled to seats in the board, and to notice of its meetings, and shall have the right to participate in its discussions, but in no wise shall be considered as members of the board, and shall not have the right to vote.

1873, ch. 335, §5.
Comp. 140.
Quorum.

§ 71. The board of aldermen shall: First by the affirmative vote of a majority of those present, and constituting a quorum, choose a president from its own members by a call of the names of the members of the board, upon which call each member shall announce his choice, and when once chosen such president can be removed before the expiration of his term as alderman, only by a vote, taken by a call of ayes or noes, of four-fifths of all the members of the board. Second, appoint a clerk and other officers. Third, determine the rules of its own proceedings. Fourth, be the judge of the election, returns, and qualifications of its own members, subject, however, to the review of any court of competent jurisdiction. Fifth, keep a journal of its proceedings. Sixth, sit with open doors. Seventh, have the authority to compel the attendance of absent members, and to punish its members for disorderly behaviour, and to expel any member, with the concurrence of two-thirds of the members elected to the board. No alderman shall sit or act as a magistrate in any judicial matter or proceeding.

1873, ch. 335, §6.
Comp. 140
Officers,
election.
1 Hun. 96; 1 Id.
35; 59 How. 35;
63 N. Y. 48.

59 How. 141, 147.

1873, ch. 335, §7,
Comp. 141.

§ 72. Every member expelled from the board shall thereby forfeit all his rights and powers as alderman.

1873, ch. 335, §8,
Comp. 141.
Meetings.

§ 73. The stated and occasional meetings of the board shall be regulated by its own resolutions and rules.

1873, ch. 335, §§9,
14, Comp. 141.
Ordinances and
resolutions.

§ 74. Every legislative act of the common council shall be by resolution or ordinance. No ordinance or resolution shall be passed except by a vote of the majority of all the members elected to the board. In case any ordinance or resolution involves the expenditure of money or the laying of an assessment, the lease of real estate or franchises, the votes of three-fourths of all the members elected to the board shall be necessary to its passage. No money shall be expended for any celebration, procession, funeral ceremony, reception, or entertainment of any kind, or on any occasion, unless by the votes of four-fifths of all the members elected to the board. No additional allowance beyond the legal claim which shall exist under any contract with the corporation, or with any department or officer thereof, or for any services on its account or in its employment, shall ever be passed by the common council, except by the unanimous vote thereof; and in all cases the provisions of any such contract shall determine the amount of any claim thereunder or in connection therewith, against the said corporation, or the value of any such services.

Expenditure of
money restrict-
ed.

1873, ch. 335, §§9,
10, 11, 12, 13,
Comp. 141.
Approved by
mayor, etc.

§ 75. Every ordinance or resolution shall, before it shall take effect, be presented, duly certified, to the mayor for his approval. The mayor shall return such ordinance or resolution to the board within ten days after receiving it, or at the next meeting of the board after the expiration of said ten days. If he approve it he shall sign it. If he disapprove it he shall specify his objections thereto in writing. If he do not return it with such disapproval within the time above specified, it shall take effect as if he had approved it. Such objections of the mayor shall be entered at large on the journal of the board, and the board shall, after ten days, and within fifteen days after such ordinance or resolution shall have been returned to it, proceed to reconsider and vote upon the same. If the same shall, on reconsideration, be again passed by the votes of at least two-thirds of all the members elected, but in no case by a less vote than was necessary on its first passage, it shall take effect. If the ordinance or resolution shall fail to receive, upon the first vote upon such reconsideration, such number of affirmative votes, it shall be deemed finally lost. In all cases the vote shall be taken by ayes and noes, and the names of the persons voting for or against its passage, on such reconsideration, shall be entered in the journal of the board. In case an ordinance or resolution shall embrace more than one distinct subject, the mayor

Veto.

Proceedings in
case of veto.

may approve the provisions relating to one or more subjects and disapprove the others. In such case, those which he shall approve shall become effective, and those which he shall not approve shall be reconsidered by the board, and shall only become effective if again passed as above provided.

§ 76. The clerk of the board of aldermen shall, by virtue of his office, be clerk of the common council and of the board of aldermen, when performing any duties or exercising any powers heretofore devolved by the constitution or the law, upon the board of supervisors, and shall perform all his duties without additional compensation to that paid him as clerk of the board of aldermen. It shall be his duty to keep open for inspection, at all reasonable times, the records and minutes of the proceedings of said boards. He shall keep the seal of the city, and his signature shall be necessary to all leases by the city of its property, and to all grants and other documents, as under existing laws.

1873, ch. 335, §15
Comp. 142.
Clerk of board
of aldermen,
his powers and
duties.

See 1880, ch.
461; 64 N. Y. 499

§ 77. Said clerk shall, except as in this act otherwise provided, receive, have, take charge of, and keep all such muniments, records, patents, deeds, minutes, writings and papers belonging to the mayor, aldermen and commonalty of the city of New York as the board of aldermen shall from time to time direct or order to be delivered to and kept by the said clerk, but under the direction and subject to the order and control of the said board.

R. L. 1813, ch.
86, §167.
Comp. 146

§ 78. The original records and papers in the several public offices in the city and county, bearing date prior to and inclusive of the year one thousand six hundred and ninety-nine, shall be deposited with the said clerk, to be preserved in his office, and said officer shall cause copies and translations thereof to be filed in the offices from which said records shall be taken where such copies and translations have not heretofore been made and filed. Access by the public shall at all times be allowed for the examination of said records and papers, under such regulations as shall be established by said clerk to secure the preservation of the same.

1865, ch. 171, §1,
Comp. 151.
Certain records
to be deposited
with clerk of
council

§ 79. The said clerk shall, subject to the rules of the board, appoint and remove at pleasure deputy clerks in his department and fix their salaries. The deputy clerks and other officers of the board of aldermen shall be officers of the board when performing duties heretofore performed by the board of supervisors and no separate officers or subordinates shall be appointed to aid them when performing such duties, and such clerks and officers shall receive no additional compensation for services rendered at such times. The aggregate amount of salaries paid to the clerks and officers of the board of aldermen, including the salary of the clerk, shall not exceed twenty-five thousand dollars in any one year.

1873, ch. 335, §75,
as amended.
1873, ch. 757, §5,
Comp. 142.

1873, ch. 335, §16,
Comp. 142.
To prepare
abstracts, etc.,
for publica-
tion.
46 N. Y. 42; 62
Id. 504; 73 Id.
239.

Resolutions to
be published.

See 1880, ch. 461.

76 N. Y. 174.

When to be
approved by
mayor.

1873, ch. 335, §18
Comp. 145.
Taxes, etc., 10
Hun, 124; 69 N.
Y. 444, 64 Id.,
500; 6 Hun, 11.
See 1880, ch. 461.

1881, ch. 478, §5.
Agreement
with Kings
Co.

1874, ch. 304, §3,
Comp. 136.
Powers and
duties of board
of supervisors
to be exercised
by board of
aldermen.

§ 80. Immediately after the adjournment of each meeting of the board of aldermen, it shall be the duty of the clerk to prepare a brief extract, omitting all technical and formal details, of all resolutions and ordinances introduced or passed, and of all recommendations of committees, and of all final proceedings, as well as full copies of all messages from the mayor and all reports of departments or officers. He shall at once transmit the same to the person appointed to supervise the publication of the City Record. No resolution or ordinance providing for or contemplating the alienation or appropriation or leasing any property of the city, terminating the lease of any property or franchise belonging to the city, or the making of any specific improvement, or the appropriation or expenditure of public moneys, or authorizing the incurring of any expense, or the taxing or assessing of property in the city, shall be passed or adopted by the board until at least five days after such abstract of its provisions shall have been published. No such ordinance or resolution shall be approved by the mayor until three days after such abstract shall have been so published after its passage; but if an abstract of any resolution or ordinance shall have been once published after its introduction, it shall not thereafter be necessary to publish the same again, but only to refer to the date and page of the former in the City Record, and to state the amendments, if any, made thereto. In all cases the yeas and nays upon the final passage of the resolution or ordinance shall be published.

§ 81. The board of aldermen shall have no power to impose taxes or assessments, or borrow money, or contract debts, or loan the credit of the city, or make a lease of any real estate, belonging to the city, or take or make a lease of any franchise save at a reasonable rent and for a period not exceeding five years, unless specially authorized so to do by act of the legislature.

§ 82. The board of aldermen shall have power to agree with the supervisors of the county of Queens for the payment by the City of New York to the said county of Queens of such proportion of the excess of the debts and obligations of said county of Queens which existed on the eighth day of June, eighteen hundred and eighty-one over and above the value of all the property which on that day belonged to said county, as should proportionally and equitably be paid by those who were the inhabitants, if any, and the property-holders upon North Brothers Island upon said day.

§ 83. All the powers and duties conferred or charged upon the board of supervisors of the said city and county shall be exercised and performed by the board of alderman of said city as such, subject nevertheless to the like power of approval or rejection by the mayor of said city, as is or may be required by law in respect

to acts of the common council of said city, except that when by the constitution any action is specifically required to be taken by the board of supervisors of said city and county, which cannot, under any power conferred by this act or otherwise, be taken in any other manner, such action may be taken by the said board of aldermen, but the concurrence of a majority of all the members shall in such case be necessary to the passage of any resolution, ordinance or act.

1870, ch. 190.
1872, ch. 860, §2.
Comp. 154.

§ 84. The ordinances of the common council in force on the first day of April, eighteen hundred and seventy, and in force at the time of the passage of this act, and all ordinances passed and adopted since the first day of May, eighteen hundred and seventy, and in force at the time of the passage of this act, are hereby continued in full force, subject to modification, amendment, or repeal by the common council.

1873, ch. 335, §119.
Comp. 145.
Ordinances in force.

§ 85. The common council shall have power to make, continue, modify, and repeal such ordinances, regulations and resolutions as may be necessary to carry into effect any and all of the powers vested in or conferred upon the corporation, and to provide by ordinance whatever provisions or regulations, other than those herein specially authorized, may become requisite for the fuller organization, perfecting, and carrying out the powers and duties prescribed to any department. The common council shall have the power to enforce obedience to such ordinances, and observance thereof, by ordaining penalties for each and every violation thereof, in such sums as it may deem expedient, not exceeding one hundred dollars, and may direct that such part of any penalty as it shall think proper, shall be paid and applied to the use of the person or persons who shall afford such information as to enable the offender or offenders to be prosecuted to conviction. All persons offending against any ordinance passed by the common council shall be deemed guilty of misdemeanor, and be punished, on conviction, by a fine, or in default of payment of such fine, by imprisonment not exceeding ten days. All ordinances shall continue in force until repealed.

1873, ch. 335, §17.
Comp. 143.
Powers of common council.
2 E. D. 8, 368;
15 N. Y. 502; 3
Rob. 66.
Id. §90.
Comp. 143.
Ordinances for perfecting organization, etc., of departments.
Id. §17.
Comp. 43. 1

§ 86. The common council shall have power to make ordinances, not inconsistent with law and the constitution of this State, and with such penalties as are provided in the last section, in the matters and for the purposes following in addition to other powers elsewhere especially granted, namely:

R. L. 1813, ch. 86, §274, as amended 1837, ch. 160, §2.
Comp. 148.
And direct part to be paid to informers.
1833, ch. 11, §21.
Comp.

1. To regulate traffic and sales in the streets, highways, roads and public places.

Ordinances.
Street traffic.

2. To regulate the use of the streets, highways, roads, and public places by foot passengers, animals, vehicles, cars, and locomotives.

Use of streets, etc.
1 Hill. 502.

3. To regulate the use of sidewalks, and prevent the extension of building fronts and house fronts within the stoop-lines.

4. to prevent encroachments upon and obstructions to the streets, highways, roads, and public places, not including parks, and to authorize and require the commissioner of public works to remove the same; but they shall have no power to authorize the placing or continuing of any encroachment or obstruction upon any street or sidewalk, except the temporary occupation thereof, during the erection or repair of a building on a lot opposite the same.

Opening of streets.

5. To regulate the opening of street surfaces, the laying of gas and water mains, the building and repairing of sewers, and the erecting of gas lights.

Numbering of houses.

6. To regulate the numbering of the houses and lots in the streets and avenues, and the naming of the streets, avenues, and public places; but it shall not be lawful for the said board to number or renumber any houses, in any street, avenue, alley, lane, road, way or public place, or to in anywise change or alter any such numbering or the name of any street, avenue, or public place, save between the first day of December of any year and the first day of May next ensuing.

See 1866, ch. 377, Comp. 856. Removing ice, etc.

7. To regulate and prevent the throwing or depositing of ashes, offal, dirt, or garbage in the streets, and subject to the other provisions of this act, to regulate the cleaning of the streets, avenues, sidewalks, and gutters, and the removing ice and snow from them.

See 1872, ch. 677, Comp. 270. 15 Abb. (N. S.) 115.

8. To regulate the use of the streets and sidewalks for signs, sign-posts, awnings, awning-posts, horse-troughs, urinals, telegraph-posts, and other purposes.

73 N. Y. 238.

9. To provide for and regulate street pavements, crosswalks, curb-stones, gutter-stones, side-walks, and the grade of streets, and to provide for regulating, grading, flagging, curbing, guttering, and, subject to the provisions of section sixty-nine of this act, lighting streets, roads, places, and avenues.

See 1878, ch. 125.

10. To regulate public cries, advertising noises, steam whistles, and ringing bells in the streets.

Vagrants, etc.

11. In relation to street beggars, vagrants, and mendicants.

12. In relation to the use of guns, pistols, firearms, fire-crackers, fireworks, and detonating works of all descriptions within the city.

13. In relation to intoxication, fighting, and quarreling in the streets.

14. In relation to places of public amusement.

15. In relation to exhibiting banners, placards, or flags in or across the streets, or from houses or other buildings.

16. In relation to the exhibition of advertisements or hand-bills along the streets, avenues, and public places.

17. In relation to the construction, repairs, and use of vaults, cisterns, areas, hydrants, pumps, and sewers. 5 Rob., 192.

18. In relation to partition fences and walls.

19. In relation to the construction, repair, care and use of markets. 6 Duer, 315; 3 Bosw. 483; 31 How. 385.

20. In relation to the licensing and business of public cartmen, truckmen, hackmen, cabmen, expressmen, car-drivers, boatmen, pawnbrokers, junk dealers keepers of intelligence offices, dealers in second-hand articles, hawkers, peddlers and vendors. All licenses therefor shall be according to an established form and regularly numbered, and be duly registered in the office of the mayor. 1822, ch. 15. Comp. 149. 1813, ch. 86, §263. Comp. 147. 1833, ch. 11, §15. Comp. 1499. 1851, ch. 423. Comp. 150. Licensing hackmen, etc. 7 How. 81.

21. In relation to the inspection and sealing of weights and measures, and enforcing the keeping and use of proper weights and measures by vendors.

22. In relation to the inspection, weighing, and measuring of firewood, coal, hay, and straw, and the cartage of the same.

23. In relation to the mode and manner of suing for, collecting, and keeping accounts of the city and county, and disposing of the penalties provided for a violation of all ordinances.

24. In relation to the erection and repair of public fountains for the use of man and animals, at convenient points along the streets and avenues and public places. Public fountains.

25. By resolution to require the commissioner of public works to do any work or take any action proper for carrying into effect the powers of the common council.

26. To regulate or to prohibit the purchase, sale, and exposure to sale of any goods, wares, or merchandise, fruits, herbs, meats, fish, or any other article or thing within the said city, on the first day of the week, called Sunday, except fresh fish, which may be sold prior to nine o'clock in the forenoon. 1813, ch. 86, §272. Comp. 147. Sales on Sunday.

27. To regulate the sale by measure or weight, or otherwise, of all kinds of fruit and vegetables. 1833, ch. 11, §14. Comp. 152.

28. To prohibit and suppress all gaming houses and places for gaming in the said city. 1813, ch. 86, §272. Comp. 147.

29. To prohibit and restrain all and every person or persons, other than licensed butchers, from carrying on the business or calling of a butcher, or any branch or part thereof, in the said city. Suppressing gaming houses. Regulating butchers.

30. Relative to the taxing and destroying of dogs within the said city. 1813, ch. 86, §273. Comp. 148.

31. For the regulating and licensing of keepers of ordinaries, or victualing houses; or places where fruit, oysters, clams, or meats, shall be sold. 1833, ch. 11, §20. Comp. 153.

32. For the more effectual suppression of vice and immorality, and the preserving of peace and good order in said city.

33. For the licensing and otherwise regulating the use and employment of dirt carts.

1813, ch. 86, §267.
Comp. 689.

34. For regulating boarding-houses and taverns, and preventing the resort of crowds of disorderly persons to them.

1814, ch. 20, §4.
Comp. 1589.
Certain powers
granted to the
corporation of
New York.
1814, ch. 52, §8.
Comp. 1590.

35. To restrain and prohibit the mooring or anchoring of any ships, or other vessels, at such place or places as will crowd or interfere with the steam ferry boats, in their passage across the East river, from the city of New York to Brooklyn, and from Brooklyn to the said city, and to regulate the lying and mooring of any ship or other vessel in the stream of North or Hudson river, so as to prevent the same from obstructing the navigation of the ferry boats in the said river from the city of New York to the Jersey shore, opposite to the said city, and to impose penalties for violations upon the owners, consignees, masters, pilots or other persons having charge of such ships or other vessels, respectively.

1851, ch. 515, §2.
Comp. 150.

36. To make the sale or exposing for sale in the streets of said city of any firewood by any person other than a licensed cartman a misdemeanor, and to prescribe punishment therefor, by a fine of not more than ten dollars, and imprisonment in the city prison of not more than five days.

1842, ch. 225, §1.
Comp. 340.
Water works.
See 1849, ch. 383.

37. For the preservation and protection of all or any of the works connected with the supplying of the city of New York with pure and wholesome water.

1853, ch. 579, §17.
Comp. 583.

38. To regulate the fees for searches and certificates to be charged by the collector of assessments and clerk of arrears.

1854, ch. 143, §17.
Comp. 863.

39. To make such regulations in reference to the running of stages and omnibuses in said city, as may be necessary for the convenient use and accommodation of the streets.

1821, ch. 161, §5.
Comp. 162.

§ 87. The common council may, by ordinance, regulate the duties and fees of the inspectors of weights and measures, and of the sealers of weights and measures, and may impose such penalties for using weights and measures and scale-beams, which shall not have been inspected and sealed, in conformity to such ordinances as to them shall seem proper. They may assign a particular district of the said city for each of the said inspectors, and likewise for each of the sealers of weights and measures, and may confine them in the performance of their duties to such districts respectively.

1834, ch. 147, §2.
Comp. 163.

§ 88. The common council may, by ordinance, regulate the rates of fare to be taken by owners or drivers of hackney coaches or carriages. Such owners shall pay an annual license fee, to be determined by the said common council. The board of alder-

1813, ch. 86, §272.
Comp. 147.
1880, ch. 47.

men may authorize the establishment, operation or extension of any route for the running of omnibuses or stages, in the manner and on the conditions provided by sections nineteen hundred and forty-seven, nineteen hundred and forty-eight and nineteen hundred and forty-nine of this act, and may terminate or alter such consent or authority in the manner and on the conditions provided by sections nineteen hundred and fifty and nineteen hundred and fifty-one.

1854 ch. 142,
§§12, 14

§ 89. Every pawnbroker or dealer in second-hand articles shall pay for a license a sum to be determined by the board of aldermen, not exceeding five hundred dollars, which sum shall be applied towards the support of the poor of the said city. The common council may fix and establish the rate of interest that shall be taken by any pawnbroker, for the loan of any sum; provided always that the rate for any loan not exceeding twenty-five dollars shall not exceed the rate of twenty-six per cent. per annum. Pawnbrokers and dealers in second-hand articles may be required to give security to the mayor, aldermen, and commonalty, with one or more sufficient surety or sureties, in a sum not exceeding ten thousand dollars conditioned for the observance of the ordinances of the common council. No greater penalty than one hundred dollars shall be imposed by any ordinance as a penalty for the violation of any ordinance by any pawnbroker or dealer in second-hand articles.

1813, ch. 86, §263,
Comp. 147.
1833, ch. 11, §17,
Comp. 152.
1833, ch. 11, §17,
Comp. 152.

1813, ch. 86, §264,
Comp. 147.
1833, ch. 11, §17,
Comp. 152.
1813, ch. 86, §265,
Comp. 147.
Pawnbrokers.
1833, ch. 11, §17,
Comp. 152.
1873, ch. 385, §17.

§ 90. The common council may, by ordinance, from time to time, designate any building or buildings within the said city and county to be the common jails of said city and county, for all the purposes for which common jails may by law be used, and such building or buildings so designated shall be such common jails until changed by an ordinance of said common council.

1830, ch. 42, §8.
Comp. 1188,
1433.
Common jail.

§ 91. The common council may assign such place in the said city as may to them seem most conducive to the public convenience for the holding of the courts of general or special sessions and of oyer and terminer and jail delivery, to be held in and for the said city and county; but any alteration of the place of holding such courts shall, before the same takes effect, be notified in one or more of the public newspapers printed in the said city, for the period of not less than four weeks.

1838, ch. 297, §1
Comp. 1383.
Courts, where
to be held.

§ 92. The common council may assign the places where the several district courts shall be held, within their respective districts, except as otherwise provided by law.

1857, ch. 344, §7,
1860, ch. 377, §4,
Comp. 1332, 1349.

§ 93. The common council must appoint some reputable physician, duly authorized to practice medicine, as the physician to the jail of the county, who shall hold his office at the pleasure of the board.

Co. Civ. Proc.,
§126.
Comp. 2035.
Jail physician.

§ 94. No new street shall hereafter be laid out in the said city,

1803, ch. 70, §10,
Comp. 612.

except with the approbation and permission of the mayor, aldermen, and commonalty, in common council convened; and if any street shall be laid out without such permission, it shall be lawful for the said mayor, aldermen, and commonalty, by by-law or ordinances, to direct the same to be stopped up, and all buildings adjoining thereto to be removed by the proprietors or occupants, within such times and under such penalties as they shall think proper.

1873, ch. 335, §90,
Comp. 145.
Accountability
of officers.

§ 95. It shall be the duty of the common council to provide for the accountability of all officers and other persons, save as herein otherwise provided, to whom the receipt or expenditure of the funds of the city shall be intrusted, by requiring from them sufficient security for the performance of their duties or trust, which security shall be annually renewed; but the security first taken shall remain in force until new security shall be given.

1865, ch. 10, §2,
Comp. 146.
Certain ordi-
nances and res-
olutions de-
clared invalid.

§ 96. Any ordinance, act, or resolution, passed by the common council or the board of education, after January thirtieth, eighteen hundred and sixty-five, authorizing the increase of the salary of any person or persons, whose salary is payable out of the city treasury, to take effect prior to the date of such ordinance, act or resolution, shall be and the same is hereby declared to be void.

1873, ch. 335, §98,
Comp. 93.

§ 97. The salaries of all officers, whose offices may be created by the common council for the purpose of giving effect to the provisions of this act, shall, subject to the other provisions of this act, be prescribed by ordinance or resolution, to be passed by the common council, and approved as hereinbefore provided for the approval of ordinances or resolutions.

1873, ch. 335, §17,
as amended
1873, ch. 757, §6,
Comp. 145.

§ 98. The ordinances of the common council shall, as far as practicable, and, so far as the same has not already been done, be reduced to a code and published as such in the City Record.

1864, ch. 202, §1,
Comp. 1484.
Records of busi-
ness of crimi-
nal courts.

§ 99. The board of aldermen shall cause statistical records to be prepared and kept of the business and proceedings of the criminal courts and offices of the city and county of New York, and shall make provision for the due collation and preservation of said records; and the said board is hereby authorized to establish such regulations as shall be necessary in the judgment of the board, to give effect to the provisions of this section, provided the expense shall not exceed one thousand five hundred dollars per annum.

1880, ch. 544.
1851, ch. 516.
1848, chs. 75, 158
Comp. 1468, 1469.
4 Abb. 25.

§ 100. There may be not exceeding seven hundred and twenty five commissioners of deeds in office at any one time. The common council is hereby authorized and empowered to appoint such commissioners from time to time, who shall hold their offices for two years from the date of their appointment,

and until others are appointed in their places. Such appointments shall not require the approval of the mayor.

§ 101. The common council, and the several members thereof, are hereby declared trustees of the property, funds and effects of said city and county, respectively, so far as such property, funds, and effects are or may be committed to their management or control, and every person residing in said city and assessed to pay taxes therein, who shall pay taxes therein, is hereby declared to be a cestui que trust in respect to the said property, funds, and effects, respectively; and any co-trustees, or any such cestui que trust shall be entitled as against such trustees, and in regard to such property, funds, and effects, to all the rights and remedies provided by law of any co-trustee, or cestui que trust to prosecute and maintain any action to prevent waste and injury to any property, funds, and estate held in trust. Such trustees are hereby made subject to all the duties and responsibilities imposed by law on trustees, and such duties and responsibilities may be enforced by any co-trustee or cestui que trust aforesaid.

1864, ch. 405, §3.
Comp. 153.
Common council trustees of public property.

§ 102. Any member of the common council who shall knowingly and willfully disregard any provision of law, applicable to the members of the common council, or who shall vote for any contract in violation of law, or any appropriation unauthorized by law, or in excess of the amount authorized by law, or for any illegal or injurious disposition of corporate property, rights, or franchises, shall be guilty of a misdemeanor, and liable to the punishment and penalties prescribed therefor; and every member voting in favor thereof shall be individually liable to refund the amount to the city at the suit of any citizen and taxpayer.

1865, ch. 538 §2.
Comp. 154.
Violations of law by members of common council.

CHAPTER V.

THE EXECUTIVE DEPARTMENT.

§ 103. It shall be the duty of the mayor:

1. To communicate to the common council, at least once a year, a general statement of the finances, government, and improvements of the city.
2. To recommend to the common council all such measures as he shall deem expedient.
3. To keep himself informed of the doings of the several departments.
4. To be vigilant and active in causing the ordinances of the

1873, ch. 335, §23.
Comp. 158.
Duty of mayor.

city and laws of the State to be executed and enforced, and for that purpose he may call together for consultation and co-operation all heads of departments.

5. And generally to perform all such duties as may be prescribed for him by the city ordinances and the laws of the State.

1881, ch. 442,
§147.

1873, ch. 335, §24.
Clerks, etc.

§ 104. The mayor is a magistrate.

§ 105. The mayor may appoint such clerks and subordinates as he may require to aid him in the discharge of his official duties, and shall render to the board of aldermen, every three months, an account of the expenses and receipts of his office, and therein shall state, in detail, the amounts paid and agreed to be paid by him for salaries to such clerks and subordinates respectively, and the general nature of their duties, which account and report shall be published in the City Record. The aggregate expenses incurred by him for such purposes shall not exceed in any one year, the sum of twenty thousand dollars.

Id. §25.
Comp. 158.
Mayor to nominate heads of departments.

1821, ch. 161, §4,
Comp. 162.

1834, ch. 147, §1,
Comp. 163.

21 Hun, 517; 19
id. 441; 58 How.
338; 57 id. 416.

§ 106. The mayor shall nominate, and, by and with the consent of the board of aldermen, appoint the heads of departments and all commissioners, except as hereinafter otherwise specially provided. He shall in like manner appoint all members of any board or commission authorized to superintend the erection or repair of any building belonging to or to be paid for by the city, whether named in any law or appointed by any local authority, and also the commissioner of jurors, two inspectors of weights and measures, and as many sealers of weights and measures as the board of aldermen may by ordinance prescribe, and also the members of any other local board and all other officers not elected by the people, whose appointment is not excepted or otherwise provided for. Every head of department and person in this section named, except as in this act otherwise provided, shall hold his office for the term of six years, and in each case until a person is duly appointed, and has qualified, in his place; but any person appointed after the commencement of the term as herein prescribed, shall hold only until the expiration of such term and until a successor is duly appointed and qualified. The terms of office of all such heads of departments and persons whensoever actually appointed, shall commence on the first day of May in the year in which the terms of office of their predecessors expire; but the comptroller, corporation counsel, and commissioner of public works to be appointed on the expiration of the terms of office of the present incumbents, in December, eighteen hundred and eighty-four, shall hold their offices until four years from the first day of May succeeding such month. All nominations to fill any vacancy which shall hereafter occur by reason of the expiration of the term of office of any officer, shall be made to the board of aldermen within ten days from the

1873, ch. 335, §25,
Comp. 158.
58 How. 404, 407.

day of the date of any such vacancy. The mayor shall appoint, without nomination to or confirmation by the board of aldermen, a person or persons to fill any vacancy or vacancies which now exist or may hereafter occur from death, resignation, or cause other than the expiration of the full term in any office to which, by the provisions of this section, he is empowered to appoint, by and with the consent of the board of aldermen. Any person who shall be appointed in pursuance of this section to fill any vacancy shall hold his office for the unexpired term of his predecessor.

1874, ch. 300, §3.
Comp. 161.
Mayor to fill vacancies.

1873, ch. 335, §25.
Comp. 158.

§ 107. The mayor shall appoint the commissioner of street cleaning with the approval of the board of health, but if after three ballots the said board shall fail to confirm or reject by a majority vote any person nominated by the mayor, two affirmative votes of members of said board shall be sufficient for his confirmation.

1881, ch. 367, §1.
Commissioner of street cleaning.

§ 108. The heads of all departments, except the head of the department of street cleaning, and all other persons whose appointment is in section one hundred and six provided for, may be removed by the mayor for cause, and after opportunity to be heard, subject, however, before such removal shall take effect, to the approval of the governor, expressed in writing. The mayor shall, in all cases, communicate to the governor, in writing, his reasons for such removal. Whenever a removal is so effected, the mayor shall, upon the demand of the officer removed, make, in writing, a public statement of the reasons therefor. No officer so removed shall be again appointed to the same office during the same term of office. The head of the department of street cleaning shall be subject to removal by the mayor with the approval of the board of health, whenever the mayor shall certify that in his judgment such removal is required in the public interest. If, after three ballots, the board of health shall fail to approve of such removal, two affirmative votes of members of said board shall be sufficient for such approval.

1873, ch. 335, §25.
Comp. 158.
Heads of departments, how removed.
79 N. Y. 582.

1881, ch. 317, §1.

§ 109. The mayor shall, on the first Monday of April, in eighteen hundred and eighty-three, and in every third year, nominate to the board of Aldermen three good and responsible citizens to be commissioners of excise; said board shall confirm or reject such nominations. In case of the rejection of such nominees, or any of them, the mayor shall nominate other persons as aforesaid, and shall continue so to nominate until the nominations shall be confirmed. The terms of office of such persons shall commence on the first day of May succeeding the date herein fixed for their nomination. Any person appointed after the commencement of the term as herein prescribed shall

1870, ch. 175, §2,
as amended
1879, ch. 145, §1.
Comp. 837.
Commissioners of excise.

Terms of office
and salaries in
cities.
Vacancies, how
filled.
Removal for
cause

hold only until the expiration of such term and until a successor is duly appointed and qualified. Any one or more of the commissioners so appointed shall have the power to act as a board of excise until the others shall be duly appointed. They shall, except as herein otherwise provided, hold their offices for three years and until others shall be appointed in their places and have qualified. The mayor shall, from time to time, as often as vacancies shall occur, appoint persons qualified as aforesaid to fill the unexpired term of any commissioner who shall die, resign, remove from the city, or be removed from office. Commissioners of excise shall be removed for any neglect or malfeasance in office, in the same manner as provided by law for the removal of sheriffs.

1873, ch. 335, §106,
Comp. 97.
Commissioners
of accounts,
appointment
and duty of.
16 Hun, 309.

§ 110. The mayor shall, from time to time, appoint and remove at pleasure two persons, who, together with the president of the department of taxes and assessments, shall be commissioners of accounts. It shall be their duty, once in three months, and oftener if they deem it proper, to examine all vouchers and accounts in the offices of the comptroller and chamberlain, and to make and publish, in the City Record, a detailed statement of the financial condition of the city, showing the amount of its funded and floating debt, the amount received and expended since the last preceding report, with a classification of the sources of revenue and expenditure, and such other information as they shall deem proper. They shall, from time to time, make an examination of the expenses of the several departments and officers, and make such recommendations to the board of estimate and apportionment, and other officers, with reference thereto, and particularly with reference to salaries and duties, as they deem advisable. Any one of such commissioners shall have authority at any time to make any such examination, and such two appointed commissioners shall be paid a reasonable compensation, to be fixed as other expenditures by the board of estimate and apportionment, not exceeding three thousand dollars each annually.

1880, ch. 155, §3.
Comp. 866.
Duty of mayor.

§ 111. The mayor is hereby authorized and empowered to regulate, license, and from time to time fix the number of hay scales in said city, and for cause to revoke any license given by him; and all persons in said city are prohibited from giving certificates of weight of hay, except those who have received such license, who shall be required to mark legibly on each bale the gross weight thereof.

1873, ch. 251, §1,
Comp. 825.
See 1874, ch. 688,
§10, Comp. 458.
Scavengers to
be licensed by
mayor.

§ 112. The mayor shall have sole and exclusive power to grant licenses to scavengers for the removal of night-soil. The mayor may make rules and regulations, specifying the duration of such licenses, and the causes for which they may be revoked; who-

ever shall violate and not conform to either of said regulations shall be subject to a penalty of ten dollars for each offense, to be recovered by action in the name of the mayor, aldermen, and commonalty, in any court having jurisdiction thereof; where the misconduct was wilful, the offender shall be subject to a penalty of fifty dollars for each offense, to be recovered as aforesaid.

§ 113. The mayor shall have authority to grant licenses to any person engaged in and carrying on the business and occupation of an auctioneer, or desiring to be so engaged, on such person's filing a bond with two good sureties in the penal sum of two thousand dollars. The mayor, on the complaint of any person having been defrauded by any auctioneer, or the clerk, agent, or assignee of such auctioneer, doing business in said city, is authorized and directed to take testimony under oath relating thereto; and if the charge shall, in his opinion, be sustained, he shall revoke the license granted to him and direct the bonds to be forfeited.

1853, ch. 138, §3.
Comp. 874.
Licenses to
auctioneers.

Id. §4.

§ 114. The mayor is authorized to grant licenses for public exhibitions, in the manner and on the conditions provided in sections nineteen hundred and ninety-eight to two thousand and one inclusive, of this act.

1872, ch. 833.
Comp. 848.
Licenses for
exhibitions.

§ 115. The mayor is authorized to grant licenses to persons keeping houses for the purpose of boarding emigrant passengers. But before granting any such license, he shall require from such person or persons a bond satisfactory to himself, with one or more sureties, in the penal sum of five hundred dollars, conditioned for the good behavior of such person or persons, and the proper conduct of all agents and runners in his or their employ. The mayor may revoke any license for cause. The person or persons receiving such license shall pay the sum of ten dollars a year for each license.

1848, ch. 219, §3.
Comp. 1681.
Licenses to
emigrant
boarding-
houses.

§ 116. The mayor is authorized to grant licenses to persons exercising the vocation of booking emigrant passengers or taking money for their inland fare or for the transportation of their baggage. The persons receiving such licenses shall pay the sum of twenty-five dollars a year for each license.

1848, ch. 219, §7.
Comp. 1683.
Licenses to
runners.

§ 117. The mayor may issue licenses authorizing the person or persons to whom the same are issued upon any street, public highway, dock or pier, or in any park or square, in the city of New York, or upon any water adjacent thereto, over which said city has jurisdiction, to solicit patronage for any hotel or inn, or passengers or patronage for any steamer, steamboat, ship, vessel or railroad, or for any person or corporation selling or offering for sale passage tickets, or contracting or offering to contract for passage in any such steamer, steamboat, ship, vessel or rail-

1880, ch. 353, §1.

Runners or sol-
licitors debarred
from selling
tickets without
license.

Id., §2.
Mayor may
issue license for
one year, and
continue the
same from year
to year.

Fee.
Id., §3.
Revocation of
license.

Mayor to ren-
der statements
to comptroller.

Co. Civ. Proc.
§42.
Places for hold-
ing court.

1873, ch. 302, §1.
Comp. 1059.

Co. Civ. Proc.
§2231.

1849, ch. 436, §6.
Comp. 269.

1873, ch. 335,
§23, Comp. 139.
Mayor, how
removed.

road. Such license shall be for the period of one year from the date thereof, and every person receiving such a license shall pay the sum of twenty dollars therefor to the said mayor, and shall also give to the mayor of said city a bond, with two good and sufficient sureties in the penalty of three hundred dollars, conditioned for his good behavior and the faithful observance by him of the provisions of this section. It shall be lawful for said mayor, upon an application made prior to the expiration of said license, to renew and continue the same from year to year, provided that the applicant therefor continues in all respects qualified, as herein provided, to hold such license, and said applicant shall, upon receiving such renewal, pay into the city treasury a further sum of twelve dollars and fifty cents per annum as a renewal fee. Licenses and renewals may be revoked at any time by the said mayor for any cause satisfactory to him, such cause to be stated in writing to the person so removed at the time of the notice of his removal. No person shall receive any license under the provisions of this section who is not a citizen of the United States and a person of good general character; such fact to be proved to the satisfaction of the mayor. The mayor shall render to the comptroller of said city quarterly accounts of all moneys received by him under the provisions of this section, and the amounts so received shall be paid over by said mayor into the city treasury.

§ 118. The mayor, or, in case of his absence, or other disability, the recorder, may, by proclamation, direct that the next ensuing term of any court, other than the court of appeals, appointed to be held in that city, shall be held in any building, within the city of New York, other than the building where the same is regularly to be held, if, in his opinion, war, pestilence, or other public calamity, or the danger thereof, or the destruction or injury of the building, or the want of suitable accommodation, renders it necessary that some other place should be selected. The proclamation must be published in two or more daily newspapers, published in the city of New York.

§ 119. The mayor is, by virtue of his office, one of the commissioners of emigration.

§ 120. Application for the removal of a person from real property as prescribed in title two of chapter seventeen of the Code of Civil Procedure, may be made to the mayor, if the property or a portion thereof is situated in the city.

§ 121. The mayor shall possess the same power as that conferred upon the superintendent and captains of police by section two hundred and eighty four of this act.

§ 122. The mayor may be removed from office by the governor in the same manner as sheriffs, except that the governor

may direct the inquiry provided by law to be conducted by the attorney-general; and after charges have been received by the governor he may, pending the investigation, suspend the mayor for a period not exceeding thirty days.

CHAPTER VI.

DEPARTMENT OF FINANCE.

Title 1.—The Comptroller.

§ 123. The finance department shall have control of the fiscal concerns of the corporation. All accounts rendered to or kept in the other departments shall be subject to the inspection and revision of the officers of this department. It shall prescribe the forms of keeping and rendering all city accounts, and, except as herein otherwise provided, the manner in which all salaries shall be drawn, and the mode by which all creditors, officers, and employees of the corporation shall be paid. All payments by or on behalf of the corporation, except as otherwise specially provided, shall be made through the proper disbursing officer of the department of finance; on vouchers to be filed in said department, by means of warrants drawn on the chamberlain by the comptroller, and countersigned by the mayor. The comptroller may require any person presenting for settlement an account or claim against the corporation to be sworn before him touching such account or claim, and when so sworn to answer orally as to any facts relative to the justness of such account or claim. Wilful false swearing before him is perjury, and punishable as such. He shall settle and adjust all claims in favor of or against the corporation, and all accounts in which the corporation is concerned as debtor or creditor; but in adjusting and settling such claims, he shall, as far as practicable, be governed by the rules of law and principles of equity which prevail in courts of justice. The power hereby given to settle and adjust such claims shall not be construed to give such settlement and adjustment the binding effect of a judgment or decree, nor to authorize the comptroller to dispute the amount of any salary established by or under the authority of any officer or department authorized to establish the same, nor to question the due performance of his duties by such officer, except when necessary to prevent fraud. The comptroller shall not reduce the rate of interest upon any taxes or assessments below the amount fixed by law. No contract hereafter made, the expense of the execution of which is not by law or ordinance, in whole

1873, ch. 235, §29,
as amended.
1873, ch. 757, §8,
Comp. 167.
1873, ch. 335, §31,
Comp. 168.

Claimants to be
sworn and ex-
amined, etc.
The comp-
troller.
1860, ch. 379,
§3, Comp. 1370.

Certain con-
tracts not to be
binding with-
out comptrol-
ler's certificate.

or in part, to be paid by assessments upon the property benefited, shall be binding or of any force or effect, unless the comptroller shall indorse thereon his certificate that there remains unexpended and unapplied, as herein provided, a balance of the appropriation applicable thereto, sufficient to pay the estimated expense of executing such contract as certified by the officer making the same. But this provision shall not apply to work done, or supplies furnished, not involving the expenditure of more than one thousand dollars. It shall be the duty of the comptroller to make such indorsement upon every such contract so presented to him, if there remains unapplied and unexpended such amount so specified by the officer making the contract, and to thereafter hold and retain such sum to pay the expense incurred until the said contract shall be fully performed. And such indorsement shall be sufficient evidence of such appropriation in any action. The comptroller shall furnish to each head of department, weekly, a statement of the unexpended balances of the appropriation for his department. Wages and salaries, including payments for the board of education, may be paid upon pay-rolls, upon which each person named thereon shall separately receipt for the amount paid to such person, and in every case of payment upon a pay-roll, the warrant for the aggregate amount of wages and salaries included therein may be made payable to the superintendent, principal teacher, foreman, or other officer designated for the purpose. The comptroller shall enter into, on behalf of the mayor, aldermen, and commonalty of the city, any lease authorized by the commissioners of the sinking fund of property leased to the city.

Provision not to apply to certain work.

Weekly statement to departments.
Payment of wages, etc.

1880, ch. 461, §3.
Comptroller to make lease.

1873, ch. 335, §32.
Comp. 168.
Deputy comptroller, his powers and duties.

§ 124. The comptroller shall appoint, and for cause to be stated in writing and published in the City Record, at pleasure remove, a deputy comptroller. The said deputy comptroller shall, in addition to his other powers, possess every power and perform all and every duty belonging to the office of comptroller, as herein provided, whenever the said comptroller shall, for reasons to be stated to the mayor in writing by due written authority, and during a period of time not extending beyond three months, nor beyond his term of office, and to be specified in such authority, designate and authorize the said deputy comptroller to possess the power and perform the duty aforesaid, and such designation and authority shall be duly filed in and remain of record in the finance department and in the mayor's office. The said deputy comptroller shall possess the like authority in case of the disability of the comptroller upon the like designation of the mayor, which shall be filed and remain of record as aforesaid; but such authority, derived from a designation by

the comptroller or the mayor, may at any time be terminated in the same manner as it was created.

§ 125. There shall be five bureaus in this department:

1. A bureau for the collection of the revenue accruing from rents, and interest on bonds and mortgages, and revenue arising from the use or sale of property belonging to or managed by the city, and for the management of the markets, which shall be known as the bureau for the collection of city revenue and of markets; the chief officer of which bureau shall be called the "collector of the city revenue and superintendent of markets."

1873, ch. 335, § 33
Comp. 160.
See 1880
ch. 521, § 3
Bureaus.
For collection
of revenue
from rents, etc.

2. A bureau for the collection of taxes; the chief officer of which shall be called the "receiver of taxes."

For collection
of taxes.

3. A bureau for the collection of assessments and arrears of taxes and assessments, and of water rents; the chief officer of which shall be called "collector of assessments and clerk of arrears."

For collection
of water rents,
assessments,
etc.

4. An auditing bureau which, under the supervision of the comptroller, shall audit, revise, and settle all accounts in which the city is concerned as debtor or creditor, and which shall keep an account of each claim for or against the corporation, and of the sums allowed upon each, and certify the same to the comptroller, with the reasons for the allowance; the chief officer of which shall be called "auditor of accounts."

Auditing
bureau.
12 Abb. 192; 17
N. Y. 584; 56 id.
466, 476; 70 id.
451.

5. A bureau for the reception of all moneys paid into the treasury of the city, and for the payment of money on warrants drawn by the comptroller and countersigned by the mayor; the chief officer of which shall be called the "chamberlain."

Receipt and
payments.

§ 126. It shall be the duty of the comptroller to publish in the City Record, two months before the election of charter officers, a full and detailed statement of the receipts and expenditures of the corporation during the year ending on the first day of the month in which such publication is made, and the cash balance or surplus; and in every such statement the different sources of city revenue, and the amount received from each, the several appropriations made, the objects for which the same were made, and the amount of moneys expended under each, the moneys borrowed on the credit of the corporation, the authority under which each loan was made, and the terms on which the same was obtained, shall be clearly and particularly specified.

1873, ch. 335
§ 108.
Comp. 98.
Financial state-
ment to be pub-
lished in City
Record
annually.

§ 127. It shall be lawful for the comptroller to apply the moneys accruing for interest on the sale of bonds in said city for unpaid taxes, assessments, and Croton water rents, or so much thereof as shall be required, to the account or fund designated

1896, ch. 876, § 5,
Comp. 227.
Application
of certain
moneys.

"lands purchased for taxes and assessments," such moneys to be used for purchases by the corporation at such sales.

1872, ch. 887, §3.
Comp. 226.
Comptroller to
sell indices in
single sets.

§ 128. The comptroller shall expose to public sale in the city of New York, upon such published notice as he may deem reasonable, the printed indices prepared under the direction of the commissioners of records, pursuant to chapter four hundred and seven of the laws of eighteen hundred and fifty-five; the same shall be sold in single sets and shall be kept so exposed for sale until he shall have sold at least two-thirds of each different set of said indices; and said comptroller shall also, from time to time, make such further sale of said indices, at auction or otherwise, and for such price as he may deem expedient; and all proceeds of such sales and money received by the comptroller under this section shall be paid into the treasury.

1880, ch. 191, §1.
Market in
Ninth ward.
1880, ch. 191, §6.
Lands, how to
be used.

§ 129. The lots in the Ninth ward bounded on the north by Bloomfield street, on the south by Gansevoort street, on the east by West street and Tenth avenue, and on the west by Thirteenth avenue, and the block of ground in said city bounded by Gansevoort, Little West Twelfth, Washington and West streets, and Tenth avenue, hereby declared to be a public market place, shall be kept for the exclusive use of farmers and market gardeners, and the finance department shall have the exclusive charge and control of said public market place, and the wagons engaged in the business of selling farm and garden produce in said city, and shall have power to make suitable regulations concerning fees, the hours during which the business of selling said produce shall be conducted, and the general management of the same.

1881, ch. 456, §7.
Removal of
reservoir.

§ 130. The comptroller shall pay, on the certificate of the commissioner of public works, the cost and expense of the removal of the reservoir situated in Fifth avenue, between Fortieth and Forty-second streets, and of the removal of the pipes connecting with said reservoir, of the laying of a main in Fifth avenue, between Fortieth and Forty-second streets to connect the mains leading in and out of said reservoir, and of the grading in a suitable manner for the purpose of a park of the ground occupied by said reservoir to the level of the adjacent streets.

1881, ch. 367, §7.
Sureties in
street-cleaning
contracts.

§ 131. The sureties upon all contracts made by the commissioner of street cleaning as authorized by section seven hundred and nine of this act shall be approved by the comptroller.

Title 2.—The Bonds and Obligations of the City.

1871, ch. 322, §§1,
2, Comp. 180.
Comptroller to
create a public
fund.
See 1873, ch. 736,
§2, §145, post.

§ 132. All stock of the city of New York hereafter issued in pursuance of laws already passed, or which may be hereafter passed, authorizing the issue of stock or bonds of the city of New York, shall, unless such laws passed after April sixth, eighteen

hundred and seventy-one shall otherwise provide, be known as "consolidated stock of the city of New York," and be issued under the authority of this and the following sections, as well as under the authority of said laws. Any holder of any of the city stock or bonds of the said city of New York issued previous to April sixth, eighteen hundred and seventy-one, may exchange the same for the consolidated city stock herein authorized to be issued, upon such terms and conditions as shall be determined and offered by the comptroller.

Exchange of present city stock authorized.

§ 133. The faith and credit of the mayor, aldermen and commonalty of the city of New York shall be and is hereby pledged for the redemption and payment of the said consolidated city stock and the interest thereon, which consolidated city stock so issued shall bear on its face a reference to the act by which its issue is authorized. The said consolidated city stock shall be in form as may be designated by the said comptroller, and shall be signed by the said comptroller and the mayor of the city of New York, and sealed with the common seal of the said city of New York, and attested by the clerk of the board of aldermen of said city.

Id. §§3, 4. Faith of city pledged for redemption of stock.

Form of stock, and how executed.

§ 134. The consolidated city stock so authorized to be issued shall be registered or coupon stock in sums not less than five hundred dollars each share, except as in the next section provided, conditioned to be paid in gold coin or in the legal currency of the United States, at the option of the said comptroller, and shall be made redeemable at a period not less than twenty years, nor more than fifty years from the date thereof; said stock shall bear an interest not exceeding six per cent. per annum. Such interest shall be made payable quarterly or semi-annually in the city of New York or any other place to be fixed by the said comptroller at the time of the issue of said stock.

Id. §§5, 8. Comp. 181. Stock to be registered or coupon stock.

§ 135. The coupon consolidated county stock may be converted into registered stock at any time, at the option of the holder of the coupon stock, and the said comptroller is hereby authorized to issue registered stock therefor, in manner and form as hereinbefore provided. And such registered stock shall be transferable at the option of the holder at any time, under such rules and regulations as the said comptroller shall prescribe.

1871, ch. 323, §8. Comp. 188. Coupon consolidated county stock, how converted. Registered stock, how transferable.

Denominations
of bonds issued
in exchange.
1879, ch. 178, §§1,
2. Comp. 183.

Preference to
applicants

1880, ch. 522, §1.
When
commissioners
of sinking fund
may direct
bonds, etc., of
city to be
exempt from
taxation for
city purposes.

Bonds to
express fact of
redemption
on the face.

1880, ch. 199, §1.
Certain town
bonds may be
registered.

Interest, how
to be paid.

1871, ch. 290, §3,
Comp. 560.
See 1872, ch. 872.

§ 136. Whenever it shall be lawful to issue any bonds of the city and county of New York in exchange for any bonds issued pursuant to law prior to April sixteenth, eighteen hundred and seventy-nine, the same shall be issued in denominations of twenty dollars, fifty dollars, one hundred dollars and five hundred dollars and upwards, each. Without pecuniary disadvantage to the said city and county of New York, preference shall, as far as practicable, be given to applicants for the smallest amounts and smallest denominations of said bonds in issuing the same.

§ 137. The commissioners of the "sinking fund of the city of New York for the redemption of the city debt," when duly authorized by ordinance of the common council, may, by concurrent resolution, direct that the bonds and stocks of said city, issued pursuant to law, after June ninth, eighteen hundred and eighty, shall be exempt from taxation by said city and by the county of New York, but not from taxation for State purposes; and all bonds and stocks issued pursuant to such authority shall be exempt from taxation accordingly, provided that said bonds and stocks shall not bear interest exceeding the rate of four and one-half per centum per annum. The bonds and stocks of the city of New York issued pursuant to the provisions of this section, shall express upon their face the fact that they are exempt from taxation by the city and county of New York, but not from State taxation, and shall refer to this section, and to the ordinance of the common council, and the resolution of the commissioners of the sinking fund authorizing their issue.

§ 138. All bonds issued by the towns of Morrisania and West Farms, formerly a portion of Westchester county, and heretofore annexed to the city and county of New York, for the payment of the principal and interest of which the city and county of New York is liable, may be registered by the owners thereof in the comptroller's office in said city; and shall be transferable at the pleasure of the holder, either in person or by attorney, only upon the books of the corporation at said office; such registry and transfer to be indorsed thereon by the stock clerk. The interest on such bonds, when so registered, shall, as the same becomes due and payable, be paid in like manner as upon other registered stock and bonds of the city and county of New York; and whenever any such bonds have coupons attached, the comptroller shall, upon registration thereof, have authority to detach all coupons therefrom, and shall thereupon indorse the fact of such registration with a reference to this section.

§ 139. It shall be the duty of and lawful for the comptroller when thereto authorized by the board of estimate and apportionment to create and issue such additional amounts of a public

fund or stock, to be denominated "city improvement stock," as shall be necessary to provide the funds to enable said comptroller to pay any and all assessments and expenses imposed, or that may hereafter be imposed, upon the mayor, aldermen, and commonalty, by reason of the laying out, opening and regulating, and grading or improving any and all streets, roads, avenues, public parks, squares or places, and out of the proceeds of said public fund or stock to pay such assessments and expenses.

Issue of city improvement stock.
To be applied for street expenses.

§ 140. For the payment of the damages awarded by the commissioners of estimate and assessment in any proceedings instituted by virtue of any of the provisions of sections six hundred and seventy to six hundred and seventy-eight inclusive, and of the expenses, charges and disbursements in the premises, the comptroller is authorized and directed, subject to the other provisions of this act, to create and cause to be issued, in the name and in behalf of the city of New York, a public fund or stock, payable not more than forty years from the date of issue thereof, which fund or stock shall be a charge upon the said city, and shall be issued at such time and times, and in such manner, of such description and in such amounts as may be directed by the department of public parks. The moneys collected upon the assessment laid by the commissioners of estimate and assessment appointed in pursuance of such sections or any of them, shall be applied toward the payment of said fund or stock or to the payment of said awards and expenses, if received before the issue of such fund or stock.

1874, ch. 604, §7.
Comp. 1080.
1871, ch. 534, §23;
1873, ch. 513, §16.
Public fund or stock to be created and issued.

§ 141. It shall be the duty of the comptroller, and he is hereby authorized and directed when thereto authorized by the board of estimate and apportionment, on requisition of the commissioner of public works, to raise, from time to time, on bonds of said city, amounts of money sufficient to pay the sums which may be necessary, from time to time, to be paid for the acquisition of any real estate, or for the extinguishment of any right, title, interest therein, to be acquired or extinguished under the provisions of the laws relating to the supply of water to the city, together with all expenses necessarily incurred in surveying, locating, and acquiring title to such real estate, or extinguishing claims for damages thereto; and also all such sums as, from time to time, may be found necessary for the construction of aqueducts, reservoirs, dams, sluices, canals and appurtenances; and all such payments shall be made by the comptroller on the certificate of the commissioner of public works; provided, however, the amount so raised shall not in any one year exceed the limitations which, by law, may be or may have been imposed as to the amount of expenditure to be made by the commissioner

1877, ch. 443.
§§19, 20.
Comp. 335.
Expenditures, etc., payment of.

1879, ch. 516.

Proviso.

Bonds to be
issued.

of public works. The bonds so to be issued shall be entitled "additional Croton water stock of the city of New York," shall bear interest at the rate of not exceeding six per cent. per annum, and shall be redeemable in not less than ten nor more than fifty years, as the said comptroller shall determine to be for the best interest of the said city. The mayor and comptroller of said city are hereby authorized and directed to sign said bonds, and it shall be the duty of the clerk of the board of aldermen to countersign the same and to affix thereto the seal of the city. Such bonds shall not be disposed of at less than the par value thereof.

1880, ch. 360, §4.
Bonds for
drains.

§ 142. It shall be the duty of the comptroller, when thereto authorized by the board of estimate and apportionment, to issue bonds in behalf of the mayor, aldermen, and commonalty, to an amount sufficient to raise the sum necessary to pay any damages that may from time to time be awarded to the owners of lands for the right of way required for drains and for the expense of plans and surveys and the fees of commissioners, in pursuance of sections five hundred and sixty-two to five hundred and sixty-five of this act, inclusive, and to pay the same from the proceeds of such bonds in the same manner as in the case of street openings.

1871, ch. 374, §6,
subd. 11,
Comp. 733.
City comptrol-
ler to issue
dock bonds.

§ 143. The comptroller shall, from time to time, when directed by the commissioners of the sinking fund, prepare and issue bonds of said city to be called "dock bonds of the city of New York," signed, sealed, and countersigned in the same manner as other bonds of said city, and bearing not more than six per cent. interest per annum, and redeemable from time to time, but not before thirty years after the date thereof, for the purpose of raising the moneys necessary to carry out the provisions of title one of chapter fifteen hereof relating to the department of docks, its powers and duties. But not more than three millions of dollars of said bonds shall be issued in any one year, and none of said bonds shall be sold for less than the par value thereof.

Limitation of
issue of bonds.

Moneys from
sales of bonds,
how deposited.

The moneys received from sales of said bonds shall be deposited in the treasury of the city, and shall be drawn out and paid by the comptroller of said city for the several objects and purposes provided in said title, relating to the said department, its powers and duties, upon the requisition of the said board of the department of docks, countersigned by the commissioners of the sinking fund. The expenses and compensation of said board, its rent, the compensation of its appointees, the purchase money and damages awarded upon the acquisition of private property, the payments under the contracts authorized in said title and for work performed under the same, and all other expenses and disbursements necessarily incurred in carrying out the said provis-

Payments
therefrom.

ions of said title in keeping, maintaining, repairing, building, and rebuilding the wharves belonging to the said corporation, in dredging and cleaning slips, shall be paid out of said moneys in the manner above provided.

§ 144. It shall be lawful for the mayor, aldermen, and commonalty to borrow from time to time, by the issue of bonds, bearing such rates of interest as they may deem proper, not exceeding six per centum per annum, such sums as may be necessary to pay all expenses incurred or to be incurred on account of regulating and paving streets, building sewers, and all other work ordered to be done by contract, under and by virtue of ordinances passed by the said mayor, aldermen, and commonalty; the expense whereof is to be afterwards collected by assessment from the property benefited by said work or works, or on account of any local improvement or other public work heretofore made or performed, or that shall be hereafter made or performed under and by virtue of the authority of any law, in all cases in which the said expense is to be paid in whole or in part by assessment upon the property benefited. Such bonds shall be issued by the comptroller when authorized by the board of estimate and apportionment, at not less than par, for such period as said comptroller may determine, not exceeding ten years. No moneys shall be paid out of the proceeds of said bonds on account of any contract hereinbefore referred to until a copy of said contract has been filed with the comptroller of said city by the head of the department having such work in charge, and also a certificate in writing from the head of such department, stating that a payment is due, and the amount of such payment.

§ 145. The comptroller is hereby directed, upon the confirmation by the supreme court of any report of commissioners appointed in proceedings to open or widen any street or avenue, or to acquire the title to land for any public place in the twelfth ward, north of One Hundred and Fifty-fifth street, or in the twenty-third or twenty-fourth wards, in which proceedings assessments for benefit have been or shall hereafter be made, and whenever assessments for grading, regulating and paving and for sewers in said territory have been or shall hereafter be laid, to issue the bonds of said city to an amount sufficient to pay said assessments, which bonds shall be in sums not exceeding one thousand dollars, and shall bear interest at the rate of not exceeding six per centum per annum, payable semi-annually, or such less rate as the said comptroller shall negotiate the same for at par, and shall express that one-twentieth of the whole amount of said bonds shall be payable in each year, such one-twentieth to be designated in each year by the comptroller on a

1852, ch. 397, §1.
Comp. 183.
Amount that
may be issued
and rate of
interest.
1872, ch. 580.

1878, ch. 383, §3.
Comp. 192.

1852, ch. 397, §1.
Comp. 184.

1881, ch. 544, §2.
Comptroller to
issue bonds for
certain street
openings.

day to be specified in said bonds by public selection by lot from the whole number of said bonds, and said assessments shall be paid from the proceeds of said bonds.

1878, ch. 383, §10.
Comp. 192.
Proposals for
bonds and
stocks hereaf-
ter issued.

§ 146. Whenever any bonds or stocks shall be hereafter issued, other than revenue bonds, or such bonds and stocks as may be purchased for investment by the commissioners of the sinking fund, the comptroller of said city shall invite proposals therefor by public advertisement for not less than ten days, and shall award the same to the highest bidder therefor; provided that no proposals for bonds or stocks shall be accepted for less than the par value of the same; and said proposals shall be only publicly opened by the comptroller in the presence of the commissioners of the sinking fund, or such of them as shall attend, at the time and place specified in the advertisement thereof. The comptroller, with the approval of said commissioners, shall determine what, if any, part of said proposals shall be accepted, and upon the payment into the city treasury of the amounts due by the persons whose bids are accepted, respectively, certificates therefor shall be issued to them as authorized by law.

1871, ch. 218, §1.
Comp. 194.
Comptroller to
issue bonds.
See 1862, ch. 361.

How applied.

§ 147. The moneys which the comptroller is authorized to pay pursuant to the provisions of section three hundred and twenty-three of this act shall be obtained by him from time to time, as may be necessary, upon the bonds of said mayor, aldermen and commonalty of the city of New York. The money collected pursuant to the provisions of said section shall be set apart, when collected, as a trust fund, and applied to the redemption of the principal and interest of said bonds; said bonds shall be payable in not less than five years from the date of their issue, and shall bear interest at a rate not exceeding six per cent. per annum. The mayor and comptroller are authorized and directed to sign said bonds, and it shall be the duty of the clerk of the board of aldermen to countersign the said bonds and affix the seal of the city thereto.

1873, ch. 756, §1.
Comp. 184.
Comptroller to
issue bonds for
certain
purposes.
See 1871, chs.
322, 323.
1878, ch. 383.

Amount
limited.

§ 148. To provide moneys for the payment of claims against the city and county of New York, incurred prior to January first, eighteen hundred and seventy-two, and of judgments which have been or may be obtained against the said city, the comptroller, whenever directed by the board of estimate and apportionment, is authorized to issue bonds of said city or county, payable within three years from the date thereof, and bearing interest not exceeding six per cent. per annum. Said bonds shall not be sold at less than their par value, and the amount thereof is limited to two million dollars.

1873, ch. 756, §3.
Comp. 185.

§ 149. If, at any time hereafter, the amount in the treasury of the city, derived from collections of assessments shall be in-

sufficient to meet and pay, when they become due and payable, any bonds issued by the mayor, aldermen and commonalty of the city of New York, for expenditures incurred on public improvements, payable in whole or in part from assessments, then it shall be lawful for the comptroller, and he is hereby authorized to issue consolidated stock for an amount sufficient to pay, and, from the proceeds thereof, to pay the bonds so falling due as aforesaid.

Issue of bonds to pay bonds falling due.

§ 150. The corporation of the city of New York is hereby authorized to borrow, on the credit of the corporation, from time to time, such amounts as may be required to meet the deficiencies caused by delay in collecting arrears of assessments; the aggregate amount so borrowed not to exceed at any time the aggregate amount of said arrears then outstanding.

1853, ch. 579, §18. Comp. 583. Corporation to borrow to meet deficiencies.

§ 151. For the purpose of completing the bridge now in course of construction between the cities of New York and Brooklyn, acquiring the land necessary therefor, and fitting and equipping the same with the requisite structures and machinery for travel and transportation thereon, as the trustees of the said bridge may determine, the city of New York shall pay to the trustees of the New York and Brooklyn bridge such sum as, added to the amount paid to said trustees since April seven, eighteen hundred and eighty, will make the sum of seven hundred and fifty thousand dollars, or so much of said sum as the said trustees shall from time to time require, and call upon the said city to pay, by request made by the said trustees, upon the mayor and comptroller of said city but the city of New York shall not at any time be called upon or required to pay more than one-half of the amount which the city of Brooklyn is at the same time called upon and required to pay; and it shall be the duty of the said comptroller, and he is authorized to borrow from time to time, as shall be requisite upon the faith and credit, and in the name of the mayor, aldermen, and commonalty of the city of New York, the moneys necessary to pay to the said trustees the sum aforesaid, and to pay the interest to accrue until the said bridge shall be completed and ready for public travel, on the bonds to be issued therefor; and also the interest to accrue from and after the first day of January, eighteen hundred and eighty, until the said bridge shall be completed and ready for public travel as aforesaid, on the bonds issued by the said city under the provisions of chapter three hundred of the laws of eighteen hundred and seventy-five, and to issue the bonds of said city, which bonds shall be signed by the mayor and comptroller of said city, for the moneys so to be borrowed, with interest, at a rate not exceeding that allowed by law, and payable half-yearly, and which bonds shall be redeemable in such time or

1880, ch. 105, §1. City of New York to pay to trustees of bridge \$750,000

Comptroller to borrow money.

Bonds to be signed by the mayor and comptroller.

times as said comptroller shall deem proper. And it is hereby expressly provided and declared that the money, by this section authorized to be raised and paid, together with the money to be paid by the city of Brooklyn, and the proceeds of the sales of lands acquired and held for the purposes of the bridge is intended and shall be used fully to complete, fit up, and equip the said bridge as a public highway between the said cities of New York and Brooklyn; the said moneys being the limit of the total amount authorized to be expended to fully and finally complete, fit up, and equip the same.

1881, ch. 461, §2.
• Money to do
work to be
raised on
revenue bonds.

§ 152. The comptroller is hereby authorized and directed to issue, upon the requisition of the department of public parks, in the name and on behalf of the mayor, aldermen and commonalty, revenue bonds of the city, to an amount not exceeding twelve thousand dollars in all, with interest at the rate not exceeding six per centum per annum, and the proceeds of said bonds shall be applied to payment for the work, labor and materials required to be done or purchased in pursuance of section six hundred and eighty-six of this act.

1874, ch. 147, §1.
Comp. 186.
Revenue bonds,
city comptrol-
ler authorized
to issue.

§ 153. For the purpose of enabling the city and county of New York to make payment of the quota of State taxes which may be imposed upon and chargeable to the said city and county at the same time or times that other counties of this State are or may be required to make payment by law, to wit: One-half thereof on the fifteenth day of April, and the other half thereof on the first day of May in each and every year; the comptroller of said city is hereby authorized and required, unless the money for the payment of the same shall have been otherwise provided, to issue revenue bonds for such amounts as may from time to time become necessary to meet such quota of the State taxes, at not less than their par value, and for such periods and at such rates of interest as the said comptroller shall determine, not exceeding six per centum per annum, and from the proceeds thereof to pay to the State treasurer the amount of taxes which the comptroller of the State shall have apportioned according to law, and which may be required to be paid, in pursuance of such apportionment, to the State by the city and county of New York at the times hereinbefore stated; and the amount of said State taxes for any fiscal year, so imposed and chargeable, shall be levied, raised and collected in the then next annual levy for taxes in the said city and county of New York, in the same manner as other city and county taxes, and the money collected thereon shall be applied to the redemption of the revenue bonds so issued.

Proceeds to be
paid to State
treasurer.

1873, ch. 335, §105.
Comp. 96.

§ 154. The comptroller is authorized to borrow, from time to time, on the credit of the corporation, in anticipation of its reve-

nues, and not to exceed in amount the amount of such revenues, such sums as may be necessary to meet expenditures under the appropriations for each current year.

§ 155. The comptroller is authorized and directed to raise such sums of money as may be necessary to make the payments directed to be made by section one hundred and ninety-six of this act, by the issue of revenue bonds in anticipation of the taxes of the year following the audit therein mentioned, and the moneys so raised shall be paid for and upon the claim referred to in said section. 1880, ch. 387, §2.
Bonds.

§ 156. The comptroller is authorized to issue assessment bonds to provide for the payment of any awards for which certificates may be filed in accordance with the provisions of section nine hundred and twelve of this act, and to pay such awards from the proceeds of such bonds. 1880, ch. 550, §10.
Id.

§ 157. Upon the receipt of a requisition issued and approved in the manner and for the purposes and amount or amounts provided in section five hundred and eleven of this act, it shall be the duty of the comptroller to pay the same; and for that purpose he shall borrow and raise upon a revenue bond, to be issued in the name of the mayor, aldermen and commonalty of the said city, the several amounts that from time to time may be so required, which shall be reimbursed by the payment of the amount and interest out of the judgment or judgments obtained as in said section provided, if the same shall be collected. 1880, ch. 550, §7.
Id.

§ 158. Upon the receipt of a requisition issued and approved in the manner and for the purposes and amount or amounts provided in section five hundred and eleven of this act, it shall be the duty of the comptroller to pay the same; and for that purpose he shall borrow and raise upon a revenue bond, to be issued in the name of the mayor, aldermen and commonalty of the said city, the several amounts that from time to time may be so required, which shall be reimbursed by the payment of the amount and interest out of the judgment or judgments obtained as in said section provided, if the same shall be collected. 1871, ch. 625, §33.
Comp. 546.
Id.

§ 159. The comptroller is authorized and directed to issue revenue bonds to provide means to make the payments required by section one hundred and thirty, in anticipation of the amount to be received for the cost and expenses therein directed. Such bonds shall bear interest at such rate as the comptroller shall deem proper, not exceeding six per cent. per annum, and shall be sold at not less than par. 1881, ch. 456, §3.
Id.

§ 160. The comptroller is authorized and directed to raise by the issue and sale of revenue bonds the amount appropriated in pursuance of section two hundred and five in those cases in which the appropriation is made after the final passage of the 1881, ch. 246, §1.
Id.

annual appropriation and the certification to the board of aldermen of the amount to be raised. The amount so raised by revenue bonds shall be included in the final estimate of the next succeeding year.

1871, ch. 213, §5.
Id.

§ 161. The comptroller is authorized and directed to raise by the issue and sale of revenue bonds the money necessary to defray the expenses authorized by section three hundred and fifty-two.

1881, ch. 442, §873.
Costs in
bastardy.

§ 162. When costs are awarded upon an appeal, to the person charged as the father or mother of a bastard, they must, upon the production of a certified copy of the order awarding costs and of the taxed costs, be paid by the comptroller, and charged to the appropriation made to the commissioners of charities and correction.

Title 3.—The Chamberlain.

1873, ch. 335, §34,
Comp. 169.
1880, ch. 521.
Chamberlain,
appointment
of, etc.
8 Abb. N. C. 92.
Bond of.

§ 163. The chamberlain shall be appointed in the same manner as heads of departments, and shall hold his office for four years, unless sooner removed, as herein provided. He shall, within ten days after receiving notice of his appointment and confirmation, and before he enters upon his office, give a bond to the people of the State of New York in the sum of five hundred thousand dollars, with not less than four sufficient sureties, to be approved by the comptroller, conditioned that he will faithfully discharge the duties of his office and all trusts imposed on him by law in virtue of his office. Such bond shall be deemed to extend to the faithful execution of the duties of the office until a new appointment shall be made and confirmed, and the person so appointed enters upon the performance of his duties. In case of any official misconduct or default on the part of such chamberlain, an action upon such bond may be begun and prosecuted to judgment by the attorney-general, who shall, after first paying therefrom the expenses of the litigation, cause the proceeds of such judgment to be distributed as shall be lawful and equitable among the persons and objects injured or defrauded by such official misconduct or default of said chamberlain.

1880, ch. 521, §2.

1873, ch. 335, §34,
Comp. 169.
Powers and
duties of

§ 164. Said chamberlain shall exhibit to the board of aldermen, at its first meeting in the month succeeding that in which he enters upon the execution of his office, an exact statement of the balance in the treasury to the credit of the city, with a summary of the receipts and payments of the treasury during the preceding year, and since the last preceding report required by law, if more than a year shall have elapsed since such report. He shall receive all moneys which shall, from time to time, be

paid into the treasury of the city. He shall deposit all moneys which shall come into his hands on account of the city on the day of the receipt thereof, or on the business day next succeeding, in such banks and trust companies as shall have been designated as deposit banks, in pursuance of the next section; but no amount exceeding two million dollars shall be on deposit at any time in any one bank or trust company. The money so deposited shall be placed to the account of the chamberlain, and he shall keep a bank book, in which shall be entered his accounts of deposit in, and moneys drawn from, the banks and trust companies in which the deposits shall be made. The said banks and trust companies shall, respectively, transmit to the comptroller a weekly statement of the moneys which shall be received and paid by them on account of the city treasury. The chamberlain shall pay all warrants drawn on the treasury by the comptroller and countersigned by the mayor, and no moneys shall be paid out of the treasury except on the warrant of the comptroller so countersigned. No such warrant shall be signed by the comptroller, or countersigned by the mayor, except upon vouchers for the expenditure of the amount named therein, examined and allowed by the auditor, approved by the comptroller, and filed in the department of finance, except in the case of judgments, in which case a transcript thereof shall be filed, nor except such warrant shall be authorized by law or ordinance, and shall refer to the law or ordinance and to the appropriation under and from which it is drawn. The chamberlain shall not draw any moneys from said banks or trust companies, unless by checks subscribed by him as chamberlain and countersigned by the comptroller; and no moneys shall be paid by either of the said banks or trust companies on account of the treasury except upon such checks. The chamberlain shall exhibit his bank-book to the comptroller on the first Tuesday of every month, and oftener when required. The accounts of the city treasurer shall be annually closed on the last day of November, and shall be examined in the month of December in said year by the commissioners of accounts. Such commissioners shall examine the accounts and vouchers of all moneys received into and paid out of the city treasury during the year ending on the last day of November next preceding such examination, and shall certify and report to the mayor and the common council, in the following month of January, the amount of moneys received into the treasury during such year, the amount of moneys paid out during the same period by virtue of warrants drawn on the treasury by the comptroller, the amount of moneys received by the chamberlain who shall be in office at the time of such examination, if he entered upon the execution of his duties since the last pre-

Pay warrants
drawn on
treasury.

Warrants, when
to be signed and
countersigned.

Money to be
drawn on
checks.

When accounts
to be closed.

Examination
of.

- ceding report, the balance in the treasury on the last day of November preceding such examination, the amount of moneys borrowed for or on the credit of the city during such year, and the amount of bonds of the city issued during such year, with the purposes for which and the authority under which such bonds were issued. Such commissioners shall also compare the warrants drawn by the comptroller on the treasury during the year ending on the last day of November preceding such examination, with the several laws and ordinances under which the same shall purport to have been drawn, and shall in like manner certify and report whether the comptroller had power to draw such warrants; and if any shall be found which in their opinion he had no power to draw, they shall specify the same in their report, with their reasons for such opinion.

1873, ch. 335, § 83,
as amended
1875, ch. 129, § 1.
Comp. 171.
Banks of de-
posit.

Interest on de-
posits.

Warrants and
reports of
moneys re-
ceived.

1890, ch. 521.
City chamber-
lain, his salary.

Interest, fees,
etc.

§ 165. The said chamberlain and mayor and the comptroller shall by a majority vote, by written notice to the comptroller, designate the banks or trust companies in which all moneys of the mayor, aldermen, and commonalty of the said city and county of New York shall be deposited, and may by like notice, in writing, from time to time, change the banks or trust companies thus designated; but no such bank or trust company shall be designated unless its officers shall agree to pay into the city treasury interest on the daily balances at a rate to be fixed by the mayor and chamberlain, and the said comptroller of the city of New York, by a majority vote, which rate shall not be less than two and one-half per cent. The said chamberlain shall keep books showing the receipts of moneys from all sources and designating the sources of the same, and also showing the amounts paid from time to time on account of the several appropriations; and no warrants shall be paid on account of any appropriation after the amount authorized to be raised for that specific purpose shall have been expended. The said chamberlain shall once in each week report in writing to the mayor and to the comptroller all moneys received by him, the amounts of all warrants paid by him since his last report, and the amount remaining to the credit of the city and county. The chamberlain shall receive the sum of twenty-five thousand dollars annually, and no more, for all services as chamberlain of said city and as county treasurer of the county of New York, in lieu of salary and of all interest, fees, commissions, and emoluments; and all such interest, fees, commissions, and emoluments shall be accounted for and paid over by him to the city treasury except that the commissions or compensation provided by law and received by him for receiving and paying over the State taxes and all interest which accrues on deposits shall be paid by him to the commissioners of the sinking fund. He may appoint

and remove at pleasure a deputy chamberlain and such clerks and assistants as may be necessary, whose salaries, together with all the expenses of his office, shall be paid wholly by him, and shall in no case be a public charge.

Commissions on State taxes, to whom to be paid.
Deputy clerks and assistants.

§ 166. The chamberlain shall on the first day of October in each year, and on the first day of each month thereafter, notify officially the comptroller of the State how much of the State tax has been collected and paid into his hands during the preceding month; whereupon the comptroller shall immediately draw his warrant therefor, payable to the treasurer of the State, who shall proceed to collect and deposit the same in the treasury of the State, and the chamberlain shall pay such warrant immediately upon its presentation and demand for payment.

1872, ch. 733, §2.
Comp. 228.

§ 167. Each provision of title three of chapter eight of the code of civil procedure, relating to a county treasurer, applies to the chamberlain, with respect to money paid into court, in an action triable in the city and county of New York, or with respect to money, or a bond, mortgage, or other security, or public stock, representing money paid into court; except where special provision, with respect to the same, is otherwise made by law.

Co. Civ. Proc.
§754.

§ 168. The chamberlain is entitled, for the services specified in this section, to the following fees: For receiving money paid into court, one-half of one per centum upon the sum so received. For paying out the same, one-half of one per centum upon the sum so paid out. For investing money, pursuant to the direction of a court, one-half of one per centum upon the sum invested, not exceeding two hundred dollars, and one-quarter of one per centum upon the excess over two hundred dollars. For receiving the interest upon an investment, and paying the same to the person entitled thereto, one-half of one per centum upon the interest so received and paid.

Co. Civ. Proc.
§3321.
Fees of chamberlain.

§ 169. It shall be the duty of the chamberlain to pay over from time to time to the commissioners of emigration, out of the moneys received by him as duty upon alien passengers arriving at the port of New York, all such sums of money as may be necessary for the execution of the inspection laws of the state of New York, with the execution of which the commissioners of emigration now are or may hereafter be charged by law, and to take the vouchers of the commissioners of emigration for all such payments. And it shall be the duty of the said chamberlain to pay over annually, on the first of January in each year, to the treasury of the United States the net produce of all such duties collected and received by him after the

1881, ch. 432, §3.
Payments to be made by chamberlain to commissioners of emigration.

payments to the commissioners of emigration aforesaid, and take the receipt of the secretary of the treasury therefor.

Title 4.—Sinking Fund.

1873, ch. 335, §102,
as amended
1873, ch. 757, §17,
Comp. 171.
Commissioners
of sinking fund.
63 N. Y., 353;
31 How., 385; 7
Daly, 439.
Have power to
sell or lease
property.

1869, ch. 876, §8,
Comp. 229.
Market prop-
erty.

Proceeds of
sale.

1873, ch. 383, §1.
Comp. 190.
Redemption
sinking fund.

§ 170. There shall continue to be a board of commissioners of the sinking fund, composed of the mayor, recorder, chamberlain, comptroller, and the chairman of the finance committee of the board of aldermen, with all the powers and duties now assigned, designated, and ratified by existing ordinances. The said board shall except as in this act otherwise specifically provided have power to sell or lease, for the highest marketable price or rental, at public auction or by sealed bids, and always after public advertisement and appraisal under the direction of said board, any city property except wharves or piers, but not for a term longer than ten years, nor for a renewal for a longer term than ten years. But if said property be market property, excepting the market between Sixteenth and Seventeenth streets, east of Avenue C, the market in Gouverneur slip, and the market in Old slip, it shall not be sold or leased unless under a condition that the purchaser or lessee thereof shall maintain said market property as and for the purposes of a public market for at least ten years from and after such sale or lease, and under due ordinances of the common council or of the department of health, or under stipulations in the deed of sale or lease. The proceeds of said sale or leasing shall, on receipt thereof, after paying necessary charges, be immediately paid to the credit of the sinking fund. It shall be lawful for the commissioners of the sinking fund in their discretion, and they are hereby empowered in such discretion to cancel any portion of the indebtedness of the said city held by them, which is by law redeemable from the sinking fund, and to sell any stocks and bonds which they may hold that are not payable from said fund, and with the proceeds of such sale of stocks and bonds to buy any other stocks and bonds which are payable from said fund.

§ 171. The fund known as "the sinking fund of the city of New York for the redemption of the city debt," shall be continued, and any excess there may be in said fund, after providing for the payment of the bonds and stocks of said city, payable therefrom, as provided by law, shall form a fund for the payment of other bonds and stocks of said city and county, as by this chapter provided. All moneys and revenues of said city heretofore pledged and appropriated to and constituting and forming said sinking fund shall continue to be and the same are hereby pledged and appropriated to said fund until all of said

bonds and stocks of the said city shall be fully and finally redeemed.

§ 172. The fund known as the "sinking fund of the city of New York for the payment of the interest accruing and to accrue upon the stocks of said city, until the same be fully and finally redeemed," shall be continued, and after providing for the payment of the interest on the bonds and stocks of said city, now payable therefrom as provided by law, shall form a fund which shall be transferred to the "sinking fund for the redemption of the city debt," and which transferred fund is hereby, in addition to the revenues and moneys aforesaid, pledged and appropriated to said last-mentioned sinking fund, until all the bonds and stocks of said city, as aforesaid, are fully redeemed and paid.

Interest sinking fund when to be transferred to redemption fund. Id. §2.

§ 173. All moneys now in the treasury of said city heretofore collected and received in payment or on account of assessments made and confirmed for local improvements in said city, and all moneys which shall hereafter be collected and received in payment or on account of assessments made and confirmed, or which may be made and confirmed, for local improvements completed prior to June third, eighteen hundred and seventy-eight, shall be paid into the sinking fund for the redemption of the city debt, and the same is hereby, in addition to the revenues and moneys aforesaid, pledged and appropriated to said sinking fund for the payment of the bonds and stocks of said city, to be paid and redeemed therefrom as hereinbefore provided.

1878, ch. 353, §3. Comp. 190. Moneys from assessments for local improvements to be paid into redemption fund.

§ 174. Between the city and its creditors, holders of its bonds and stocks as aforesaid, there shall be and there is hereby declared to be a contract that the funds and revenues of the city and the funds to be collected from assessments as aforesaid, by this chapter pledged to the sinking fund for the redemption of the city debt, shall be accumulated and applied only to the purposes of said sinking fund, until all of said debt is fully redeemed and paid, as herein provided.

Id. §4. Comp. 191. Contract between city and creditors.

§ 175. Nothing in this title contained shall be held to require or authorize the commissioners of the sinking fund to use or apply any part or portion of the accumulations in said sinking fund for the redemption of the city debt or the revenues of said fund in any manner whatever, whereby the security of said fund for the payment of the bonds and stocks of said city, for which said fund is now pledged by law, and which are a charge on said fund, shall be alienated or impaired, and the said bonds and stocks so secured by law are hereby declared to constitute a preferred charge on said sinking fund until the same are fully and finally paid and redeemed.

Id. §5. Sinking fund not to be alienated or impaired.

§ 176. The commissioners of the sinking fund are hereby au-

Id. §6.

Commissioners
may call in
bonded debt.

Consolidated
stock.

1878, ch. 383, §7.
Comp. 191.
Bonds and
stocks to be
paid from sink-
ing fund.

1880, ch. 550,
§11.

1862, ch. 163, §3,
Comp. 189.
Mayor, alder-
men and com-
monalty pro-
hibited from
altering rates.

thorized and empowered to call in, pay, and redeem any portion of the bonded debt now a charge upon the treasury of the said city, other than revenue bonds issued in anticipation of the collection of taxes, when they may deem it to be advantageous for the interests of the city so to do, and for this purpose the said commissioners of the sinking fund are hereby empowered to authorize by a concurrent vote, and direct the comptroller to issue and sell or exchange therefor, at not less than par, "consolidated stock" of said city, payable within a period of not less than twenty nor more than fifty years from the date of issue thereof, and at a rate of interest not exceeding five per cent. per annum, payable semi-annually; and upon the payment and redemption of any portion of said bonded debt the certificates thereof shall be canceled by said commissioners. The "consolidated stock" of said city, issued as by this section authorized, after fully providing for the preferred bonds and stocks of said city, as in the preceding section specified, shall form a charge upon the said sinking fund for the redemption of the city debt, and any part of said bonded debt falling due not exchanged for or redeemed from the proceeds of consolidated stock as herein provided, may be paid from said sinking fund for the redemption of the city debt, provided such payment shall not in any way impair the preferred claims thereon as in the preceding section specified, and provided also, the commissioners of the sinking fund shall deem it to be for the best interests of the city that such payment should be so made.

§ 177. From the said sinking fund for the redemption of the city debt shall be paid and redeemed all preferred bonds and stocks of said city for the payment or redemption of which said fund is pledged, as aforesaid, and other bonds and stocks of said city as by this title authorized.

§ 178. The assessments made for local improvements prior to the ninth day of June, eighteen hundred and eighty, including assessments for improvements contracted for or authorized prior to said date, shall, when collected, be paid over to the commissioners of the sinking fund of said city, and applied by them in accordance with law.

§ 179. It shall not be lawful for the said mayor, aldermen, and commonalty to make or cause to be made any alteration of rates or charges affecting any item or source of the revenues of either of the sinking funds of said city or of the general fund which may tend to a diminution of the receipts from such source of revenue, or either of them; and all the revenues of said corporation not by law otherwise specifically appropriated, shall, when received into the city treasury, be credited to the general fund.

§ 180. The commissioners of the sinking fund possess the power, and they are authorized to lease, in the manner provided by law, along with the franchise of a ferry within said city, such wharf property, including wharves, piers, bulkheads, and structures thereon, and slips, docks, and water fronts adjacent thereto, used or required for the purposes of such ferry, now owned or possessed, or which may be hereafter owned or acquired by said city, or to which the corporation of said city is or may become entitled, or which it may become possessed. Nothing in this section contained shall be held to apply to that portion of the East river which has, by law, been exclusively set apart for the use of canal boats engaged in the transportation of freights in the Hudson river, coming to tide-water from the canals of the State.

1880, ch. 498,
§§1, 2.
Commissioners
of sinking fund
may lease
wharf prop-
erty, etc.
Not to apply to
part of East
river set apart
for canal boats.

§ 181. All applications to lease any real estate for the purposes of the mayor, aldermen, and commonalty of the city of New York, including the premises required in accordance with law for armories and drill rooms and places of deposit for the safe-keeping of arms, uniforms, equipments, accoutrements, and camp equipage of the National Guard, must be presented to and passed upon by the commissioners of the sinking fund of said city. It shall be the duty of the comptroller, after due inquiry to be made by him, to present to the said commissioners a statement in writing of the facts relating to any real estate proposed to be leased, the purposes for which such lease is required by the city, with his opinion, and the reasons therefor, as to the fair and reasonable rent of said premises. The said commissioners, upon such report, and upon such further inquiry as they in their discretion may make, may authorize a lease of such premises as shall be specified in their resolution, at the rent therein set forth, for a period not exceeding five years, but such lease shall not be authorized except at a fair and reasonable rent, and unless the commissioners are satisfied and shall so express that it would be for the interests of the city that a lease of the premises for the purposes specified should be made. Without the consent of the said commissioners the premises leased shall not be used during the period of the lease for purposes other than specified in said resolution. If the city shall, prior to the making of the lease, have entered upon the possession of the property, the lease may be made to commence as of the date when the occupation commenced.

1880, ch. 461,
§§1, 2.
1870, ch. 80,
§120, Comp.
1203.
Applications
for leases must
be passed upon
by commission-
ers of sinking
fund.
Comptroller to
present state-
ment of facts.

Commissioners
may authorize
a lease.

§ 182. The commissioners of the sinking fund are authorized and directed to renew, from year to year, the lease of the premises at Castle Garden, now occupied by the commissioners of emigration, upon such terms and conditions as may be mutually agreed upon.

1866, ch. 876,
§11, Comp. 1679.

Cession of
lands by city of
New York au-
thorized.
1849, ch. 345, §4.
Comp. 1226.

Certificate.

Conveyance.

1871, ch. 574, §6
Comp. 720.

1870, ch. 33, §1,
Comp. 1177.
Commissioners
of sinking
funds may sell
certain lands.

Certificate of
sale.

§ 183. The commissioners of the sinking fund, or the mayor, aldermen, and commonalty, are authorized to cede, grant, and convey to the United States, upon such terms, and for such consideration as may be agreed upon by and between said commissioners of the sinking fund, or said mayor, aldermen, and commonalty, and the United States, all the estate, right, title, and interest of the city of New York, in and to any part of the land required for the channel to connect the waters of the Harlem river with the Hudson river, in accordance with the plans for the improvement of the Harlem river, prepared under the direction of the secretary of war. Whenever any part of said land shall have been ceded by said commissioners of the sinking fund, pursuant to the authority hereby given, it shall be the duty of said commissioners of the sinking fund, or a majority of them, to give a certificate under their hands, that the same has been ceded, pursuant to the provisions of this section; and upon the production of such certificate, and upon proof of due compliance, on the part of the United States, with the terms of cession, it shall be the duty of the mayor of said city, and the clerk of the common council, in the name and on behalf of the said mayor, aldermen, and commonalty, to execute a proper conveyance of such lands under their hands and the seal of said city.

§ 184. The commissioners of the sinking fund shall perform the duties and possess the powers with reference to docks, piers, and slips, stated in sections seven hundred and twelve and seven hundred and fifteen of this act.

§ 185. The commissioners of the sinking fund are authorized to sell to the United States, upon such terms, and for such consideration, as may be agreed upon by and between said commissioners of the sinking fund and the authorities of the United States, so much of the land situated in and belonging to the corporation of said city, and immediately adjoining the northerly side or boundary of the land heretofore conveyed by the mayor, aldermen, and commonalty of the city of New York to the United States, for a site for a post-office, as is now covered by two sidewalks, each one hundred and three feet and six inches in length by nineteen feet two inches in width, with a paved passage-way between, eleven feet and eleven inches in width, making a total area of two hundred and eighteen feet eleven inches in length, and nineteen feet and two inches in width. Whenever said land shall have been sold pursuant to the authority hereby given, it shall be the duty of the commissioners of the sinking fund, or a majority of them, to give a certificate under their hands that the same has been sold pursuant to the provisions of this section; and upon the production of such certificate, and upon proof of due compliance on the part of the

United States with the terms of sale, it shall be the duty of the mayor of said city, and the clerk of the common council, in the name and on behalf of said mayor, aldermen and commonalty, to execute a proper conveyance of such lands under their hands and the seal of said city.

§ 186. The commissioners of the sinking fund are authorized, upon the application of the board of education duly authorized and certified, to sell at public auction at such times and on such terms as they may deem most advantageous for the public interest, any land or lands and the buildings thereon, owned by the mayor, aldermen, and commonalty of the city of New York, occupied or reserved for school purposes, and no longer required therefor; provided, however, that no property shall be disposed of for a less sum than the same may be appraised at by the commissioners of the sinking fund, or a majority of them, at a meeting to be held and on an appraisal made within one month prior to the date of the sale; and at least thirty days' notice of such sale, including a description of the property to be sold, shall be published in the City Record. The money received in payment for the said lands and buildings shall be paid into the treasury of the city.

1881, ch. 89.
§§1, 2.
Commissioners may
sell lands at
auction.

Proviso as to
price.

§ 187. The commissioners of the sinking fund are authorized and empowered to lease to "The Mount Sinai Hospital in the city of New York" a piece or parcel of ground belonging to the city, and situate on the block bounded by Lexington and Third avenues, Sixty-seventh and Sixty-eighth streets, being so much of said block as said commissioners may deem proper for the erection thereon of a building for the use of said hospital, such lease to be for a period of ninety-nine years, at such nominal rent as they may deem advisable, having in view the provision made by such institution for a class of patients needing hospital treatment, and who would otherwise become a public charge upon the mayor, aldermen and commonalty of the said city. Such lease shall contain a covenant on the part of said corporation, The Mount Sinai Hospital in the city of New York, that no charge whatever shall be made for the treatment of patients in any of the wards of the buildings to be erected upon the said land.

1881, ch. 189.
§§1, 2.
Lease to
Mt. Sinai
Hospital.

Covenant.

§ 188. The commissioners of the sinking fund are empowered to lease to the German Hospital and Dispensary of the city of New York, for a term not exceeding ninety-nine years from the date of said lease, the land situate on the southeasterly corner of Seventy-seventh street and Fourth avenue, which was on the thirteenth day of May, eighteen hundred and eighty-one, held by said hospital by a lease from the mayor, aldermen and commonalty of the city of New York, upon the same terms on

1881, ch. 272.
Lease to
German
Hospital.

which said lands were then leased, but such lease shall continue only so long as the same shall be used for the purposes of a hospital and dispensary, and for no other purpose.

Title 5.—Appropriations and the Board of Estimate and Apportionment.

1873, ch. 385 §112.
Comp. 172.
Board of estimate and apportionment.
77 N. Y. 542.
16 Hun, 340.
Provisional estimate.

Provisional estimate, what to contain.

Estimates in detail.

Heads of departments to furnish statement.

§189. The mayor, comptroller, president of the board of aldermen, and the president of the department of taxes and assessments, shall constitute the board of estimate and apportionment. The first meeting of said board in every year shall be called by notice from the mayor, personally served upon the members of said board. Subsequent meetings shall be called as the said board shall direct. At such meetings the mayor shall preside, and one of the number shall act as secretary. The said board shall, annually, between the first day of August and the first day of November, meet, and, by the affirmative vote of all the members, make a provisional estimate of the amounts required to pay the expenses of conducting the public business of the city and county of New York, in each department and branch thereof, and of the board of education for the then next ensuing financial year. In such provisional estimate they shall include such sum as may be necessary for the payment of the interest on the bonds of the said city and county which shall become due and payable within said year, and such sum as shall be necessary to pay the principal of any bonds and stocks which may become due and payable from taxes during said year, and also so much as may be necessary to pay the proportion of the State tax required to be paid by the city and county of New York in said year. Such provisional estimate shall be prepared in such detail as to the aggregate sum allowed to each department and bureau as the said board of apportionment shall deem advisable. For the purpose of making said provisional estimate, the heads of departments and the board of education shall, at least thirty days before the said provisional estimate is required to be made as herein provided, send to the board of estimate and apportionment an estimate in writing, herein called a departmental estimate, of the amount of expenditure, specifying in detail the objects thereof, required in their respective departments, including a statement of each of the salaries of their officers, clerks, employees, and subordinates. The same statement as to salaries and expenditure shall be made by all other officers, persons, and boards having power to fix or authorize them. A duplicate of these departmental estimates and statements shall be made at the same time to the board of aldermen. The board of estimate and apportionment

ment shall consider such departmental estimates and other statements in making the provisional estimates herein provided, and in approving the salaries of the officers, clerks, and other persons before named. After such provisional estimate is made by the board of estimate and apportionment, it shall be submitted by said board, with their reasons for it in detail, within ten days, to the board of aldermen; whereupon a special meeting of said board shall be called to consider such estimate, and the same shall simultaneously be published in the City Record; and it shall be their duty carefully to consider and investigate the said provisional estimate and the reasons assigned therefor; but such consideration and investigation shall not continue beyond fifteen days. Any objections to or rectifications of said provisional estimate made by said board of aldermen shall be made by said board in writing, and transmitted by the clerk thereof to the board of estimate and apportionment, who shall proceed to the consideration of such objections or rectifications, and after such consideration shall make a final estimate. Should the said board overrule the objections or suggestions made by the board of aldermen, the reasons for such action shall be published in the City Record. After the provisional estimate has been returned by the board of aldermen to the board of estimate and apportionment, and before the final estimate is made, the said last-mentioned board shall fix such sufficient time or times as may be necessary to allow the taxpayers of said city to be heard in regard thereto, and the said board shall attend at the time or times so appointed for such hearing. After the final estimate is made in accordance herewith, it shall be signed by the members, and when so signed the said several sums shall be and become appropriated to the several purposes and departments therein named. The said estimate shall be filed in the office of the comptroller and published in the City Record.

Duplicate estimate submitted to board of aldermen.

Corrections may be made.

1880, ch. 521, §3.
Taxpayers to be heard before final estimate is made.

1873, ch. 333,
§112, Comp. 103.
Final estimate to be signed and filed.

§ 190. It shall be the duty of the board of estimate and apportionment, from time to time, to provide for the payment of the interest and principal of the bonds and other obligations of the city, or for which the city is liable, and also to provide for the payment to the commissioners of the sinking fund of any sums directed by special laws to be paid to said commissioners on account of such bonds or obligations and in anticipation of their maturity, and to provide for the raising of the money therefor, in accordance with such special laws and the laws under which such bonds and obligations were issued or created.

Replaces numerous special acts authorizing the issue of bonds, and making similar provisions as to them.

§ 191. Whenever and as often as the commissioners of the sinking fund shall certify to the board of estimate and apportionment that the accumulations in the sinking fund will not be sufficient to meet the payment of any bonds or stocks falling due

1878, ch. 283, §7.
Comp. 192.

in the next following calendar year, it shall be the duty of said board of estimate and apportionment, and it is hereby required, to include in the annual estimate for such year, to be raised by tax on the estates, real and personal, in said city, subject to taxation, such an amount to be applied to the payment of said bonds or stocks as shall be certified by said commissioners, and the amount so included in said estimate shall be paid into said sinking fund and applied as in this section specified; provided, however, that the amount so to be raised by tax and paid into the sinking fund, as in this section provided, shall not in any one year be less than the sum of one million dollars, nor more than two million dollars.

Proviso.

Id. §8.
Money for pay-
ment of stocks
and bonds here-
after issued,
how raised.

§ 192. For the payment of all bonds and stocks of the said city issued after June third, eighteen hundred and seventy-eight, pursuant to the provisions of any statute authorizing the same, and which by the provisions of such statute are payable from taxation—other than revenue bonds issued in anticipation of the collection of taxes—there shall be included in the annual estimate each year, to be raised by tax on the estates, real and personal, in said city, subject to taxation, a sum sufficient, with the accumulation of interest thereon, to meet and discharge the amount of said bonds or stocks by the time the same shall be payable as such sum shall be certified to the said board of estimate and apportionment by the comptroller, and which sum so raised by tax shall be paid annually, on the first day of November, to the commissioners of the sinking fund, and shall be invested by them in the same manner as the revenues pledged to the sinking fund for the redemption of the city debt.

1890, ch. 554.
§§1, 2.
Duty of board
of estimate and
apportionment
to levy amount
to pay final
judgment.

§ 193. If a final judgment for a sum of money, or directing the payment of money, shall have been, or shall hereafter be recovered against said city, and the same remains, or shall hereafter remain unpaid, and the execution thereof is not, or shall not be stayed as required by law, or if so stayed, the stay has expired, or shall hereafter expire, it shall be the duty of the board of estimate and apportionment, and the said board is hereby empowered to assess, levy, and cause to be collected at the same time and in like manner as other moneys for the necessary expenses of the city are, then next thereafter to be assessed, levied, and collected, and in addition to the moneys now authorized by law to be assessed, levied, and collected for that purpose, a sum of money sufficient to pay the said judgment, with the interest thereupon, and the fees and expenses chargeable by law upon the execution, if any, issued to collect the same. The moneys so assessed and levied as soon as collected and paid to the proper receiving and dis-

Levy to be in
addition to
amount author-
ized by law.

bursing officer or officers, or so much thereof as may be necessary, shall, from time to time, be paid by him or them to the judgment creditor, administrator, or assignee, or other person entitled to receive the same by reason of the said judgment, without any deduction for his or their fees or commissions. No restriction or limitation imposed by law as to the sum to be raised in any year shall apply to the moneys to be raised for the purposes specified in this section; but the said moneys shall be raised in addition to any sum so restricted or limited.

Money to be paid to judgment creditor.

Limitation as to amount shall not apply to moneys to be raised under this section.

§ 194. The board of estimate and apportionment shall annually include in its final estimate the following sums, which shall annually be raised and appropriated:

First—Such sum, not exceeding five hundred thousand dollars in any year, as shall be included in the estimate of the department of public works to be expended in repaving such streets, avenues and public places in said city as shall be certified to the board of aldermen by the commissioner of public works as required to be repaved for the safety, health, or convenience of the public, and as said board of aldermen shall by ordinance or resolution direct.

1875, ch. 476, §1.
Comp. 601.

Second—Such sum, not exceeding two hundred and fifty thousand dollars, as said board may deem necessary in the interest of the city, to be expended by the commissioner of public works, when thereto authorized by the common council, according to law, in extending and enlarging the distribution of water through the city.

1879, ch. 381, §2.
Comp. 313.

Third—All necessary sum or sums of money for the purpose of paying the expense incurred by any coroner, in accordance with law, in employing scientific experts, engineers, and toxicologists.

1875, ch. 620, §3.
Comp. 1463.

Fourth—The amount fixed by said board for clerk hire and contingent and incidental expenses of the office of the commissioner of jurors, but not exceeding six thousand dollars per annum.

1879, ch. 266, §2.
Comp. 1495.

Fifth.—The sum of fifteen thousand dollars to be paid to the trustees of the Seventh Regiment new armory fund, or their successors, as an equivalent and in lieu of a rental for an armory for said regiment, and to be paid in semi-annual sums of seventy-five hundred dollars each, which shall be used by them in paying the interest or principal of the bonds issued by said regiment under chapter fifty-seven of the laws of eighteen hundred and seventy-nine. Provided, however, that the said appropriation and payments shall cease when all the bonds issued by the regiment for completing and furnishing its new armory have been fully paid, or by conformity with said act would have been paid;

1879, ch. 57, §5.
Comp. 1307.
To trustees of seventh regiment in lieu of rental, etc.
How applied.
When appropriations and payments to cease.

and such annual appropriations shall not in any event be made for a period beyond fifteen years.

1873, ch. 429, §5.
Comp. 1300, 1308.
1870, ch. 80, §120,
as amended.
1875, ch. 228, §34,
Comp. 1308.
1869, ch. 595, §2,
Comp. 517.

Sixth.—The sum or sums authorized to be expended in accordance with law for the purchasing and leasing of lands and the erection or leasing of buildings for armories and drill-rooms.

Seventh.—The amount necessary for the maintenance of the meteorological and astronomical observatory, museum of natural history and gallery of art, and the buildings, instruments, and equipments thereof in the Central park, not exceeding, however, thirty thousand dollars.

1875, ch. 404, §2,
Comp. 385.

Eighth.—Such sum, not exceeding twenty thousand dollars, as is included in the departmental estimates submitted to it by the department of public charities and correction, to be applied to the relief of poor adult blind persons.

1879, ch. 504, §4.
Tenement
house fund.
See §608.

Ninth.—The sum of ten thousand dollars to the credit of the health department, to be known as the tenement house fund, to be expended by the board of health.

1872, ch. 675,
§91, Comp. 831.
Election
expenses.

Tenth.—Such sum as is necessary to pay the expenses of the registration and revision of registration required by law, and of all elections held in said city during the year.

1855, ch. 575, §2;
1875, ch. 414, §1,
Comp. 1273.

Eleventh.—Such sum as may be necessary to pay the compensation payable according to law to justices of the supreme court from judicial districts other than the first judicial district, who hold court in the city.

1880, ch. 589, §8.
Night medical
service.

Twelfth.—The amount necessary for the support of the night medical service; but in no case shall the sum so appropriated exceed three thousand dollars for any one year.

1880, ch. 163, §1.
Bridges over
Bronx river.

Thirteenth.—To pay the proportion of expense chargeable to the city for the building, maintenance, and repair of the public bridges over the Bronx river, between the city and county of New York and the county of Westchester, which are now built, or which may hereafter be built.

1880, ch. 579, §1.

Fourteenth.—The amount necessary to pay the expense of procuring and preparing surveys and maps for commissioners of estimate and assessment, appointed in any proceeding to open any street, avenue, or public park or place.

1875, ch. 604, §4,
Comp. 1599.
1880, ch. 463, §4.

Fifteenth.—The sum apportioned to said city for its proportion of the salary of the shore inspector, so called, and of the expenses incurred by him in pursuance of law.

1880, ch. 392, §1.

Sixteenth.—The sum necessary to pay the salaries of the janitors of the district courts.

1874, ch. 656,
§§1, 2, Comp.
1266.

Seventeenth.—Such sum as is necessary for defraying the expenses incurred by virtue of sections ten hundred and ninety-three, ten hundred and ninety-four and ten hundred and ninety-five of this act.

Eighteenth.—Such sum as may be necessary to pay the expenses of the police courts and the board of police justices incurred in accordance with law, and the salaries of the clerks, interpreters and stenographers of the court of general sessions, appointed in accordance with law.

Nineteenth.—Such sum as may be necessary to provide for the compilation and publication of the registry of voters.

Twentieth.—Such sum as may be required by the trustees of the College of the City of New York, pursuant to section ten hundred and fifty-nine.

Twenty-first.—The sums necessary to make the following described payments, namely:

1. To the American Female Guardian Society, for the maintenance of each girl under the age of fourteen, and each boy under the age of ten years, committed to such society by any magistrate in the city of New York, the sum of two dollars per week for each and every week until such child is discharged or removed from the institution of such society.

2. To the American Female Guardian Society twenty-five thousand dollars, to be applied to the support of the industrial schools and other charitable work of the said society.

3. To the New York Society for the Relief of the Ruptured and Crippled, the sum of one hundred and fifty dollars for the support of every crippled child received and retained in their hospital, for one year, and a proportionate sum for a shorter period.

4. To the New York Infirmary for Women and Children, twenty-five dollars for each homeless or needy mother who has received care and attendance in the lying-in wards of the New York Infirmary for Women and Children, for such care and obstetric attendance; and the further sum of eighteen dollars per month, and proportionately for any fraction of a month, for each mother thus domiciled and attended at the birth of her child, and for each homeless or needy mother with a nursing infant who resides at said infirmary at the request of or by permission of its officers, and wet-nurses her own infant, provided such residence shall exceed the period of two months, but the said monthly allowance of eighteen dollars shall not be paid for a longer period than for one year, for any mother so remaining continuously.

5. To the Children's Fold, of the city of New York, the sum of two dollars per week for each and every orphan, half-orphan and destitute child received and supported by said institution, the expense of whose support is not paid by private parties.

6. To the Union Home and School for the Education and Maintenance of the Children of Volunteers, the sum of one

1861, ch. 701, §6.
1866, ch. 637, §1.
1872, ch. 471,
Comp. 761.
1863, ch. 722, §2.
Comp. 1481.
"Daily Register"
and law
library.

1873, ch. 538, §4.
Comp. 1897.
Police courts,
etc.

1876, ch. 199, §2.
Comp. 1336.
1876, ch. 409, §2.
Comp. 1396.
1857, ch. 249, §2.
as amended.
1878, ch. 105, §1.
Comp. 1733.

Am. Female
Guardian
Society.

1872, ch. 754, §1.
Comp. 1736.

1872, ch. 835, §1.
Comp. 1814.
Sum to be paid
annually for
each child re-
tained in hos-
pital

1877, ch. 101, §1.
Comp. 1813.
Homeless and
needy mothers
compensation.
of.

Id. for those
nursing their
own infants.

Monthly allow-
ance of \$18 not
to continue for
more than one
year.

1874, ch. 506, §2.
Comp. 1700.

1870, ch. 309, §1.
as amended

1873, ch. 143,
Comp. 1780.
Union Home
and school.

hundred and fifty dollars per annum, and in like proportion for any fraction of a year, for each and every destitute child received from said city which may be supported and maintained by said institution.

1870, ch. 166, §3,
Comp. 1786.

7. To the New York Institution for the Blind, fifty dollars for each State pupil sent to and received in the said institution from said city, whose parents or guardians shall, in the opinion of the superintendent of public instruction, be unable to furnish them with suitable clothing, to be by it applied to furnishing such pupils with suitable clothing while in said institution.

1865, ch. 70, §1,
Comp. 1782.
Children's Aid
Society.

8. To the Children's Aid Society, the sum of ten thousand dollars for the uses and purposes of said society.

1867, ch. 163, §1,
Comp. 1782.

And also the sum of thirty thousand dollars to be applied to the care and education in the industrial schools of said city, of destitute children not attending the common schools in the city of New York.

1871, ch. 180, §1,
Comp. 1783.

And also the sum of thirty thousand dollars to be applied to the support of the Boys' and Girls' Lodging-houses of the said Society.

1874, ch. 644, §1,
Comp. 1779.
Foundling Asy-
lum.

9. To the Foundling Asylum of the Sisters of Charity, at the rate of thirty-eight cents per day for each and every foundling or infant received and maintained by them.

1877, ch. 43, §2,
Comp. 1780.
Compensation
for maintaining
needy women,
etc.

And also for each and every homeless and needy mother with a nursing infant, who shall reside at the asylum by request of its officers, and nurse her own infant, the sum of eighteen dollars per month.

See 1872, ch.
635, §12.
1866, ch. 650, §1,
as amended
1874, ch. 643, §1,
Comp. 1774.
Nursery and
Child's Hospi-
tal.

10. To the Nursery and Child's Hospital the sum of five dollars per week for every destitute woman admitted into its lying-in wards, according to the time of the said woman's continuing under the care of the said institution, and the further sum of ten dollars per month for each and every child born in the institution or supported and maintained by said institution, whenever it may be necessary or expedient to place said child in the country, or, for want of room in the institution, to find accommodation for it elsewhere; and also the sum of ten dollars per month for all children received and retained in the Nursery and Child's Hospital in the city of New York, and in like proportion for any fraction of a year for each and every destitute child which may be supported and maintained in said institution.

1865, ch. 106, §22,
as amended
1876, ch. 213,
and 1877, ch. 90,
§1, Comp. 1772.
Infant Asylum

11. To the New York Infant Asylum a sum of money at the rate of thirty-eight cents per day, in monthly payments, for each and every child received and maintained by said asylum; a further sum of twenty-five dollars for each homeless or needy mother who receives care and attendance in the lying-in wards of the asylum; the further sum of eighteen dollars per month, and proportionately for any fraction

of a month, for each homeless or needy mother who is domiciled in the asylum and attended at the birth of her child, and resides at the asylum by the request of its officers, and wet-nurses her own infant; and for each other homeless or needy mother with a nursing infant who resides at the asylum by the request of its officers and wet-nurses her own infant; provided, however, that in each case such residence must exceed the period of two months, and that said monthly allowance shall not be paid for a longer period than for one year for any mother so remaining.

Homeless and
needy mothers,
provision for
maintenance
of, etc.

12. To the Shepherd's Fold of the Protestant Episcopal Church in the State of New York, the sum of five thousand dollars, to be applied to the purposes and objects of said corporation.

1871, ch. 369, §3.
Comp. 1766.
Shepherd's
Fold.

13. To the New York Catholic Protectory, yearly, the sum of one hundred and ten dollars per capita, on the average number of persons annually maintained in its institution; the average number of persons thus maintained shall be ascertained by the examination and testimony, under oath, of the president or secretary of said society.

1866, ch. 647, §1.
Comp. 1761.
1867, ch. 428, §1.
Comp. 1762.
Protectory.

14. To the Hebrew Benevolent Society of the city of New York, one hundred and ten dollars per annum, and proportionately for any fraction of a year, for each orphan, half-orphan, and indigent child committed or intrusted to its care in pursuance of the provisions of law.

1860, ch. 816, §4,
as amended
1874, ch. 280, §1.
Comp. 1753.
Hebrew So-
ciety

15. To the New York Juvenile Asylum, one hundred and ten dollars per annum, and proportionately for any fraction of a year, for each child which, by virtue and in pursuance of the provisions of chapter three hundred and thirty-two of the laws of eighteen hundred and fifty-one, as amended by laws of eighteen hundred and fifty-eight, chapter forty-three, laws of eighteen hundred and sixty-three, chapter ninety-four, and laws of eighteen hundred and sixty-six, chapter two hundred and forty-five, shall be intrusted or committed to the said asylum, and shall be supported and instructed therein.

1851, ch. 332, §28,
as amended
1858, ch. 43, §1.
1863, ch. 94, §1.
1866, ch. 245, §9.
Comp. 1746.
Juvenile Asy-
lum.

16. To the Roman Catholic House of the Good Shepherd, monthly payments at the rate of one hundred and ten dollars per annum for each female between the ages of fourteen and twenty-one, committed to it by any magistrate in accordance with chapter four hundred and nine of the laws of eighteen hundred and sixty-seven.

1867, ch. 409, §1.
Comp. 1411.
House of Good
Shepherd.

17. To the Magdalen Female Benevolent Asylum and Home for Fallen Women, monthly payments at the rate of one hundred and ten dollars per annum for each female between the ages of fourteen and twenty-one years, committed to it by any magistrate in accordance with said last-mentioned law.

1867, ch. 409, §1.
Comp. 1411.
Magdalen Asy-
lum.

1867, ch. 409, §1.
Comp. 1411.
House of
Mercy.

18. To the Protestant Episcopal House of Mercy, monthly payments at the rate of one hundred and ten dollars per annum for each female between the ages of fourteen and twenty-one years, committed to it by any magistrate in accordance with said last-mentioned law.

1880, ch. 597, §1.
House of In-
dustry

19. To the Five Points House of Industry the sum of fifty-two dollars per year for each and every orphan, half-orphan, and destitute child, not exceeding two hundred children in any one year, received and supported by said institution for each year, the expense of whose support is not paid by private parties, and in the same proportion for the part of a year.

1880, ch. 598, §3.
Association for
Children.

20. To the Association for Befriending Children and Young Girls, a per capita allowance of one dollar a week for each female by it rescued, supported, instructed, and trained to useful employment.

1875, ch. 221, §4.
Comp. 176.

21. Such other sum or sums as are, or may be by law, directed to be raised and paid for charitable purposes, or to private or incorporated societies, associations, asylums, hospitals, corporations, institutions, protectories, homes or schools.

1875, ch. 221, §§1.
2, Comp. 175.
Annual aid and
support of the
poor.
Payment to
charitable
institutions.

§ 195. The board of estimate and apportionment shall include in their annual estimates such amounts as they may consider necessary in aid and support of the poor, and appropriate and pay such proportion thereof as they may deem necessary or proper to the various charitable or reformatory institutions in said county, in aid and support of the poor of such county, who are cared for or supported in and by such institutions. No appropriation or payment shall be made to any charitable institution by the board of estimate and apportionment under this section except to institutions to which such board was, during the year eighteen hundred and seventy-four, authorized to appropriate and pay moneys in aid and support of the poor cared for or supported therein or thereby, nor shall any payment be made to any such institution thereunder in excess of the amount authorized to be paid to it by such board during said year, except in cases where such payment has been made to an institution, per capita, in which latter case no greater amount shall be appropriated to it, per capita, than is authorized to be made to such institution by existing laws.

Appropriations
to charitable
institutions.

Payment per
capita.

1880, ch. 587,
§§1, 3.
Board of esti-
mate to audit
charges against
city for cost,
etc.

§ 196. The board of estimate and apportionment is hereby authorized and directed to audit and allow as charges against the city the reasonable costs, counsel fees and expenses paid or incurred, or which shall hereafter be paid or incurred, by any police commissioner who shall be a successful party in any proceeding to remove a police commissioner from office, or to review or prohibit any such removal or to obtain possession of the office of police commissioner. The board of estimate and appor-

tionment is hereby authorized and directed to cause to be included in the taxes to be levied and raised for the year following such audit upon the estate subject to taxation in said city and county, an amount sufficient to pay the revenue bonds directed to be issued by the said comptroller in anticipation of the collection of the said taxes, with all interest due or to become due thereon.

Amount to be included in tax levy.

§ 197. The board of estimate and apportionment shall annually include in the estimate of the amounts necessary to pay the expenses of conducting the business of the department of public parks such sum or sums of money as shall, in the judgment and discretion of said board, be necessary to carry on the work of making maps of the territory constituting the Twenty-third and Twenty-fourth wards for the use of the department of taxes and assessments.

1873, ch. 613, §17, as amended
1876, ch. 411, §1, Comp. 599.
Maps of annexed district.

§ 198. In case of injury or damage to the New York and Brooklyn Bridge one-third of the necessary means to repair and restore the same shall be paid by the city of New York, and such sum shall, if necessary, be raised by the issue of bonds. On the completion of the New York and Brooklyn Bridge, one-third of the income derived from it shall be applied towards the payment of the principal and interest of all bonds issued for its construction by the city of New York.

1875, ch. 300, §5, Comp. 1238.
Injury to Brooklyn Bridge.
1875, ch. 300, §4, Comp. 1237.

§ 199. The amount raised by assessment pursuant to the provisions of chapter one hundred and ninety-one of the laws of eighteen hundred and eighty shall be collected and paid into the city treasury, and applied toward the payment of revenue bonds issued under said chapter. If any deficiency shall arise from any cause, and a sufficient amount shall not be realized from such assessment to pay fifty thousand dollars of the revenue bonds issued pursuant to said chapter, with the interest thereon, such deficiency shall be provided for by the board of estimate and apportionment, by including the same in the annual appropriation first made, after the amount of such deficiency, if any, shall be ascertained.

1880, ch. 191, §1, Deficiency, how to be provided for.

§ 200. It shall be the duty of the board of estimate and apportionment to fix the salaries to be paid to the clerks and other employees in the office of the commissioner of jurors, provided the total amount allowed for clerk hire and contingent and incidental expenses shall not exceed six thousand dollars per annum; and said board shall annually include the amount so fixed in its final estimate.

1879, ch. 268, §2, Comp. 1495.
Clerks of Commissioners of Jurors

§ 201. It shall be the duty of said board from time to time as it may determine to fix the salary to be paid to the coroners' physicians, but such salary shall not exceed the sum of three thousand dollars a year.

1878, ch. 256, §4, Comp. 1464.
Coroners' physicians.

1873, ch. 335,
§97, Comp. 93.
Salaries of
officers.
48 How. 238; 51
Id. 486; 67 N. Y.
21: 67 N. Y. 88.

§ 202. The salaries of all officers paid from the city treasury whose offices existed on April thirtieth, eighteen hundred and seventy-three, but are not embraced in any department, shall be fixed by the board of estimate and apportionment. Such board may, by a majority vote, reduce any such salaries, but shall not increase the salary of any office the compensation of which then exceeded three thousand dollars.

1880, Ch. 521, §5.
Statement of
names of per-
sons not within
a department
employed by
city.
1873, ch. 335, §112,
as amended.
1873, ch. 737, §20,
Co. Civ. Proc.,
§791.

§ 203. The board of estimate and apportionment shall file with the final estimate during the month of December in each year a schedule of the names of all persons not within a department employed under the city government, the designation of their offices and employments respectively, and the salaries and compensation fixed for each, which said schedule shall be published in the City Record.

Comp. 103, 174.
May authorize
issue of stocks
and bonds.

§ 204. The board of estimate and apportionment may, at any time, as occasion may require, by the affirmative vote of three members, authorize the issue of any stocks or bonds for the purpose of withdrawing or taking up at maturity any stocks or bonds outstanding; but the said bonds or their proceeds shall be applied exclusively to the payment, purchase, and extinction of such maturing bonds in such manner that the aggregate of the stocks or bonds of said city outstanding shall not be increased thereby for a longer period than is necessary in effecting said change. The said board of estimate and apportionment may, from time to time, by the affirmative vote of three members, authorize the issue of the whole or any portion of any stock or bonds which are now by law authorized to be issued, upon compliance with the provisions of law authorizing them. The said board of estimate and apportionment may, from time to time, on the application of the head of any department, authorize the transfer, from one bureau or purpose to another in the same department, of any sum theretofore appropriated for the purpose of such department or bureau. All provisions of law enacted prior to April thirtieth, eighteen hundred and seventy-three, creating any board of apportionment and audit, or either, and providing for and requiring an audit and allowance of claims by said board, are repealed.

Appropriations, how
transferred.
See 1874, ch.
308, §2.

Repeal of cer-
tain provisions.

Appropriation
for prevention
of contagious
diseases.
1881, ch. 246, §1.

§ 205. For the prevention of dangers from contagious or infectious diseases found to exist in any part of the city, or for the care of persons exposed to danger from contagious or infectious diseases, the board of estimate and apportionment may appropriate to the use of the health department money in excess of the annual estimate and appropriation for any year to the amount that shall be declared necessary for such purpose by resolution of the board of health; not however to exceed in the aggregate the sum of fifty thousand dollars in excess of such annual

Amount
limited

appropriation, and if any sum or sums of money shall be so appropriated by said board of estimate and apportionment in any year prior to the date of the certificate of the comptroller to the board of aldermen of the aggregate amount of the final estimate for such year, the amount thereof shall be added to such final estimate and included in the tax levy in such year.

§ 206. The board of estimate and apportionment shall immediately after its receipt appropriate to the board of education for the purpose of purchasing property or erecting school buildings for new schools, the establishment of which shall have been authorized according to law, all moneys received from sales made in pursuance of the provisions of section one hundred and eighty-six.

Proceeds of sale of school buildings, how to be applied.
1881, ch. 89, §2.

§ 207. The board of estimate and apportionment shall have the power at any time to transfer any appropriation for any year which may be found, by the head of the department for which such appropriation shall have been made, to be in excess of the amount required or deemed to be necessary for the purposes or objects thereof, to such other purposes or objects for which the appropriations are insufficient, or such as may require the same; and if it is found at the time when the estimate is made of the expenses of conducting the public business for the next succeeding fiscal year, that there will be a surplus or balance remaining unexpended of any appropriation then existing at the end of the current fiscal year, after allowing sufficient to satisfy all claims payable therefrom, such surplus may be applied to like purpose in the next succeeding year. Any balances of appropriations remaining unexpended, after allowing sufficient to satisfy all claims payable therefrom, may at any time, after the expiration of the year for which they were made, be transferred by the comptroller, with the approval of said board of estimate and apportionment, to the general fund of the city, and applied to the reduction of taxation. But any balance of any appropriation made for the purposes specified in section six hundred and eighty shall remain applicable to such purposes and be applied thereto whenever called for by the commissioners of public parks.

1874, ch. 308, §2.
Comp. 175.

Excess of appropriations may be transferred.

Surplus may be applied the next year.

1873, ch. 335, §112.
1873, ch. 335, §112, as amended
1873, ch. 757, §30.
Comp. 174.

1881, ch. 324, §2.

§ 208. There shall be paid annually out of the excise moneys of the city of New York, to the Home for Fallen and Friendless Girls in said city, the sum of one hundred and fifty dollars, for the support of every fallen and friendless girl received and supported by said corporation in their Home for Fallen and Friendless Girls for the year for which such payment shall be made, and a proportional sum for a shorter period in the same year.

1873, ch. 868, §1.
Comp. 1789.
Home for girls.

§ 209. The terms and conditions of all contracts for street sweeping and cleaning, or for the collection of ashes and gar-

1881, ch. 367, §6.
Street sweeping contracts.

bage, shall, before they are entered into, be approved by the board of estimate and apportionment.

1873, ch. 231, §§4,
5, 6 as amended
1873, ch. 410,
Comp. 177.
Excise moneys,
how appropri-
ated.

§ 210. Said board of estimate and apportionment is authorized, from time to time, and in sums according to its discretion, by resolution of said board, to appropriate all excise moneys derived by the excise commissioners in said city from licenses for the sale of intoxicating liquors, to such benevolent or charitable institutions in said city which shall gratuitously aid, support or assist the poor thereof as may seem to said board deserving or proper, but no such resolutions shall be valid unless adopted by a majority vote of all the members of said board; and the comptroller shall draw his warrants in favor of such institutions respectively mentioned in such resolutions according to the tenor thereof, and the chamberlain shall pay such warrants out of the said moneys received for licenses. The term "poor" as used in this section shall only include persons who would otherwise become a charge upon said city as foundlings, orphans, and such prostituted or fallen women or juvenile delinquents as may be committed to or cared for gratuitously, in or by any reformatory institution, protectory, or juvenile asylum, persons who are supported, relieved, or cared for gratuitously in or by any charitable institution for the care or relief of the ruptured or crippled, the cure of hip or spinal diseases, the sick or the destitute, friendless or infirm, including the children of volunteers dying in the late civil war, and the care and instruction of idiots, the deaf and dumb, the blind and the insane. No payments shall be made in pursuance of this section, except as a per-capita allowance for the poor and destitute persons actually supported, treated, cared for, or educated in the institutions referred to in this section, except in the case of the American Female Guardian Society and Home for the Friendless, the Children's Aid Society, and the Shepherd's Fold of the Protestant Episcopal Church, which shall severally receive only the same amounts as provided by other provisions of law.

Term "poor"
defined.

Amounts paid.

1873, ch. 335,
§113, Comp. 104.
In case of con-
test, appropria-
tion only to be
made to pre-
vailing party.

Counsel to be
assigned by law
department.

§ 211. No appropriation or payment for the contesting of the office of mayor, or any seat in the board of aldermen, or office in any department, or the office of any officer whose salary is paid from the city treasury, shall be made to any but the prevailing party. Nor shall any such appropriation or payment be made to such prevailing party, except upon the written certificates of the chief officer of the law department and of the chief justice of the court of common pleas of the city and county of New York, as to the value of the services rendered in the case. In case an officer or clerk is ordered to be examined, in pursuance of law, the corporation counsel shall assign some one from his department as counsel to the officer or clerk making the ap-

plication; but should such officer or clerk see fit to employ other counsel than that assigned by the law department, then, in that event, no appropriation or payment shall be made for his or their payment, except upon a certificate of the justice or justices before whom the proceedings have been had that there was probable cause for taking such proceedings.

Title 7—Levying Taxes.

§ 212. It shall be the duty of the comptroller of said city to prepare and submit to the board of aldermen at least four weeks before their annual meeting, in each and every year, for the purpose of imposing the annual taxes, a statement setting forth the amounts by law authorized to be raised by tax in that year, on account of the corporation of the city of New York or for city purposes within said city, and also an estimate of the probable amount of receipts into the city treasury during the then current year, from all the sources of revenue of said general fund, including surplus revenues from the sinking fund available in accordance with law, other than the surplus revenues of the sinking fund for the payment of the city debt, and the said board of aldermen are hereby authorized and directed to deduct the total amount of such estimated receipts from the aggregate amount of all the various sums which by law they are required to order and cause to be raised by tax in said year for the purposes aforesaid, and to cause to be raised by tax only the balance of said aggregate amount, after making such deduction.

1862, ch. 165, §2.
Comp. 180.
Duties of the
comptroller.
See 1878, ch.
383, §2.

1878, ch. 383, §2.

§ 213. It shall be the duty of the board or body authorized to levy taxes to include in any and every ordinance or resolution passed by them imposing and levying taxes for any purpose or purposes authorized by law, such sum, in addition to the aggregate amount required for such purposes, as they shall deem necessary, not exceeding three per cent. of said aggregate amount, to provide for deficiencies in the actual product of the amount imposed and levied therefor.

1873, ch. 756, §1.
Comp. 186.

§ 214. The aggregate amount estimated by the board of estimate and apportionment in its final estimate shall be certified by the comptroller to the board of aldermen; and it shall be the duty of said aldermen, and they are hereby empowered and directed annually to cause to be raised, according to law, and collected by tax upon the estates, real and personal, subject to taxation within the city and county of New York, the amounts so estimated and certified as aforesaid.

1873, ch. 335,
§112, Comp. 103.
Supervisors to
meet and con-
sider such
estimate.

CHAPTER VII.

THE LAW DEPARTMENT.

1873, ch. 335,
§38, Comp. 235.
Law department,
business of,
11 Abb. 66; 5 Id.
325; 5 Hun. 237.

1881, ch. 367, §7.

§ 215. The law department shall have the charge and conduct of all the law business of the corporation and its departments, and of all law business in which the city of New York shall be interested, except as in this act otherwise provided; the charge and conduct of the legal proceedings necessary in widening, opening, or altering streets, and the preparation of all leases, deeds, and other legal papers connected with any department. All contracts entered into by the commissioner of street cleaning, in pursuance of sections seven hundred and eight and seven hundred and nine, and all bonds securing the same shall be approved as to form by the counsel for the corporation. No officer or department, except as otherwise specially provided, shall have or employ any attorney or counsel, but it shall be the duty of the law department to furnish to every department and officer such advice and legal assistance as counsel or attorney, in or out of court, as may be required by such officer or department; and for that purpose the counsel to the corporation may assign an attorney to any department that he shall deem to need the same; he shall appoint the attorney for the collection of personal taxes.

1873, ch. 335,
§38, Comp. 75,
76.
Bureaus.

Chief officers
of, not to re-
ceive fees to
their own use.

§ 216. There shall be two bureaus in this department, the chief officer of one of which shall be called the corporation attorney, and the chief officer of the other of which shall be called the public administrator. Such chief officers shall not receive to their own use any fees or emoluments in addition to their salaries, and they shall pay into the treasury all costs and commissions received by them from any source whatever: such payments shall be made monthly, and shall be accompanied by a sworn statement in such form as the comptroller shall prescribe, and such statement, with a detailed list of costs, commissions, fines and penalties collected, shall be published in the City Record monthly. All actions to recover penalties for a violation of any law or ordinance, except as otherwise specially provided, shall be brought in the name of the mayor, aldermen, and commonalty of the city of New York, and not in that of any department, and shall be conducted by the corporation attorney, subject to the control of the corporation counsel. All fees received in any such action shall be paid into the treasury of the city,

except as otherwise specially provided. The counsel to the corporation shall, once in three months, report to the comptroller the name of parties to, and the object of, all suits pending in his department, when commenced and the number decided or ended, and in what manner, during the past three months.

Counsel to the corporation to report to comptroller.

§ 217. Before entering upon the duties of his office, any person appointed to the office of public administrator, shall execute a bond with such sureties as shall be approved by the mayor or recorder of the said city, to the mayor, aldermen, and commonalty thereof, in the penal sum of ten thousand dollars, conditioned for the faithful discharge of all duties enjoined on him by law, and particularly that he will account for and pay over all moneys and property that may come to his hands as such administrator, according to law.

Rev. Stat. part 2, ch. 6, tit. 6, art. 1, § 2, Comp. 236. Oath and bond.

§ 218. The public administrator shall retain a commission, over and above all expenses, upon all moneys that shall come into its hands, at the rate of five dollars upon the hundred dollars, upon all sums received from any one estate, not exceeding two thousand five hundred dollars; and upon all sums so received exceeding that sum, at the rate of two dollars and fifty cents upon every hundred dollars; which sums may be so retained in preference to any debts or claims, excepting funeral charges. The moneys so retained shall be accounted for and paid by him into the treasury of the city of New York.

2 R.S. ch. 6, title 6, art. 1, § 3, Comp. 236. Commissions and salary.

§ 219. In the right of his office, the public administrator shall have authority to collect and take charge of the goods, chattels, personal estate, and debts of persons dying intestate, and for that purpose to maintain such suits as public administrator, as any executor might by law, in the following cases:

Id. § 4, Comp. 237.

1. Whenever any person shall die intestate, either within this State or out of it, leaving any goods, chattels, or effects within the city and county of New York.

His authority.

2. Whenever any goods, chattels, or effects of any person who shall have died intestate, shall arrive within the said city and county, after his death.

3. Whenever any person coming from any place out of this State, in a vessel bound to the port of New York, and arriving at the quarantine, near the city of New York, shall there die intestate, and shall leave any effects either at the said quarantine or in the city of New York, or elsewhere.

4. Whenever any effects of any such person so arriving and dying intestate at the said quarantine shall, after his death, arrive either at the said quarantine or within the city of New York.

5. Whenever any person, coming from any place out of this State in a vessel bound to the port of New York, shall die intes-

2 John. ch. 433.

tate on his passage, and any of his effects shall arrive at the said quarantine.

In all the preceding cases, intestacy shall be presumed until a will shall be proved, and letters testamentary be granted thereon.

Id. §5.

§ 220. But the last section shall not confer on the public administrator any authority in respect to the estate of any person not a citizen of this State, dying outside of this State, or on board of any foreign vessel within the harbor of New York, unless—

1. Such person shall have landed within the city and county of New York, or at the quarantine near the said city; or,

2. Unless the effects of such person, or some part of them, shall have been so landed; and when any effects of such person shall have been so landed, the authority of the public administrator shall extend to such effects only.

Id. §§6, 7.
Order of surrogate, when necessary.

When order to be granted.

§ 221. Whenever there shall be any widow, or next of kin of any such intestate, entitled to a distributive share in his estate, residing in the city of New York at the time of his death, the public administrator, upon receiving notice of such fact, shall not have any authority to interfere with the effects of the deceased until he shall have obtained an order from the surrogate to take charge thereof. Such order may be granted by the surrogate, upon the application of the public administrator, and upon due proof being made to him, by affidavit, that the effects of the deceased are in danger of waste or embezzlement, or that for any other reason it would be for the benefit of the estate to have the same, or any part thereof, seized and secured.

2 R. S. ch. 6,
title 6, art. 1.
§§8, 9,
Comp. 233.
Subpoena to discover concealed effects.

§ 222. Whenever, in any of the cases in which the public administrator is authorized to take charge of the effects of any intestate, any goods, chattels, credits, or effects of the deceased, or of which he had possession at the time of his death, or within twenty days previous thereto, shall not have been delivered to the public administrator, nor accounted for, satisfactorily, by the persons who were about the deceased in his last sickness, or in whose hands the effects of the deceased, or any of them, may be supposed at any time to have fallen, the public administrator may institute an inquiry concerning the same; and upon satisfying the surrogate, by affidavit, that there are reasonable grounds for suspecting that any such effects are concealed or withheld, he shall be entitled to a subpoena to be issued by the surrogate under his seal of office, to such persons as the said public administrator shall designate, requiring them to appear before such surrogate, at the time and place therein to be specified, for the purpose of being examined touching the estate and effects of the deceased. If the surrogate be absent

from the city, such application for a subpoena may be made to any justice of the supreme court, to the first judge of the court of common pleas of the said city and county, or to the recorder of said city, either of whom is hereby authorized to issue such subpoena, under his hand and private seal, in the same manner as the surrogate.

§ 223. Such subpoena shall be served in the same manner as in civil causes, and if any person shall refuse or neglect to obey the same, or shall refuse to answer touching the matters herein-after specified, he shall be attached and committed to prison by the said surrogate or other officer so issuing such subpoena, in the same manner as for disobedience of any citation or subpoena issued by a surrogate in any case within his jurisdiction. Upon the appearance of any person so subpoenaed before such surrogate or other officer, he shall be sworn truly to answer all questions concerning the estate and effects of the deceased, and shall be examined fully and at large, by the public administrator, in relation to the said effects.

Id. §§10, 11.
How served and enforced.

Examination of witness.

§ 224. If, upon any inquiry, it shall appear to the officer conducting the same, that any effects of the deceased are concealed or withheld, and the person having possession of such property shall not give the security herein specified, for the delivery of the same, such officer shall issue his warrant, directed to the sheriff, marshals, and constables of the city or county, where such effects may be, commanding them to search for and seize the said effects, and for that purpose, if necessary, to break open any house in the day time, and to deliver the said property so seized to the public administrator, which warrant shall be obeyed by the officers to whom the same shall be directed and delivered, in the same manner as the process of a court of record. But such warrant shall not be issued to seize any property, if the person in whose possession such property may be, or any one in his behalf, shall execute a bond, with such sureties, and in such penalty as shall be approved by the surrogate, or other officer acting in his place, to the public administrator, conditioned that such obligors will account for and pay to the said public administrator the full value of the property so claimed and withheld (and which shall be enumerated in the said condition), whenever it shall be determined in any suit to be brought by the public administrator, that the said property belongs to the estate of any deceased person, which the administrator has, by law, authority to collect and preserve.

Id. §§12, 13.
Warrant, when to issue.
3 Bradf. 241.

Bond to stay warrant.

§ 225. Whenever any effects of a deceased person, of which the public administrator is authorized to take charge, shall be at the quarantine at the time of the death of such person, or shall arrive there afterwards, it shall be the duty of the health officer,

2 R. S. ch 6,
title 6, art. 1,
§14, Comp. 239.
1863, ch. 358, §27.

as amended
1865, ch. 592, §5.
Comp. 246.
Duty of health
officer in cer-
tain cases.

his assistants or deputies, whichever shall be present, to secure the said effects from waste and embezzlement, and to make a true inventory thereof, and when the rightful claimants of such effects do not appear within three months, to deliver the same, with such inventory, to the public administrator, and immediately to give information of such effects to the public administrator, to cause an inventory or account thereof to be taken, and to deliver the same to the said public administrator, unless the said property be of such a description as ought not to be removed, or may be ordered to be destroyed under the laws concerning the public health.

Id. §15.
Perishable
property.

§ 226. If any property taken into the charge of the public administrator shall be in a perishing condition, he may immediately sell the same at public auction, on obtaining an order for that purpose from the surrogate, which shall be granted on due proof of the fact.

Id. §§16, 17.
Notice, when to
be given.
1 Barb. ch. 302.

How served
and published.

§ 227. If the property of any intestate of which the public administrator is authorized to take charge shall exceed in value the sum of one hundred dollars, he shall immediately give notice of his intention to apply to the surrogate for letters of administration upon the estate of such intestate, specifying the time and place when such application will be made. Such notice shall be served personally on the widow and the relatives of the intestate entitled to any share in his estate, if there be any to be found in the city, at least thirty days before the time therein specified. If there be none to be found in the said city, and in all cases where the notice shall not have been personally served, it shall be published at least twice in each week, for four weeks, in some newspaper printed in the city.

Id. §§18, 19, 20.
Comp. 240.
Granting of let-
ters may be
contested.
When execu-
tor, widow, or
relative entitled
to letters.

§ 228. At the time specified in such notice, any person interested in the estate of the deceased may appear and contest the granting of letters of administration to the public administrator, and shall be entitled to subpoena to compel the attendance of witnesses on such hearing. If it shall appear that the deceased has left any will of his personal property, by which any executor is appointed who is competent and qualified according to law to take upon him the execution of such will; or if it shall appear that there is a widow or any relative of the deceased entitled to a share in his estate, willing, competent, and qualified according to law to take letters of administration, with the will annexed, if there be one, or to take letters of administration, if there be no will, then letters testamentary shall be granted to such executor, or letters of administration shall be granted to such widow or relative, as in other cases. Upon such letters testamentary or letters of administration being granted, all control and authority of the public administrator over the es-

Effect of such
letters.

tate of the deceased shall cease, and every order that may have been previously granted to him in relation to the estate shall be revoked.

§ 229. The expenses incurred by the public administrator, in all necessary measures for securing and guarding the effects of the deceased from waste and embezzlement, of serving and publishing the notice aforesaid, and of obtaining any necessary order from the surrogate, and of executing such order, shall be taxed and allowed by the surrogate, and may be retained by the public administrator out of any moneys or effects of the deceased in his hands, and the residue thereof shall be delivered by him to the executor or administrator so allowed or appointed, without any abatement or deduction for commissions or for any other charges than such as shall have been so allowed and taxed. If there shall be no moneys or effects of the deceased in the hands of the public administrator to pay such expenses, the same, after being allowed and taxed, shall be paid by the executor or administrator so appointed, in preference to all other debts or claims, except funeral charges, and the public administrator may maintain an action therefor in his own name.

2 R.S. ch. 6,
title 6, art. 1,
§§ 21, 22.
Previous ex-
penses to be
paid.

§ 230. If no executor be allowed, and no letters testamentary or of administration be granted by the surrogate to any other person, at the time specified for hearing the application, or at such other times as shall have been appointed, then, unless it appear that letters testamentary or of administration have already been granted on such estate, the surrogate shall grant letters of administration thereon, with the will annexed or otherwise, as the case may require, to the public administrator, briefly stating that the administration of the goods, chattels, credits and effects of the deceased has been granted to him according to law; which letters, the record thereof, and a transcript of such record duly certified, shall be conclusive evidence of the authority of said public administrator in all cases in which he is authorized by law to act.

Id. § 23.
Letters, when
to be granted to
public adminis-
trator.

§ 231. If the property of any intestate, of which the public administrator is authorized to take charge, be worth a sum not exceeding one hundred dollars, he shall immediately give notice, briefly stating that the effects of the deceased, naming him, with his addition, in the hands of the public administrator, will be administered and disposed of by him according to law, unless the same be claimed by some lawful executor or administrator of the deceased, by a certain day to be specified in such notice, not less than thirty days from the service or first publication thereof, as herein directed. Such notice shall be personally served on the widow and every relative of the deceased who shall be residing in the city of New York, if any can be found;

Id. §§ 24, 25,
Comp. § 41.

How served.

and if none be found, and in all cases where such personal service shall not have been made, the notice shall be published once in each week, for four weeks, in a newspaper printed in the city.

Id. §§26, 27.
Affidavit, etc.

§ 232. If, at the time appointed in such notice, no claim to the effects of the deceased shall have been made by any lawful executor or administrator, the public administrator shall make and file in the office of the surrogate an affidavit, stating the value of the property and effects of the deceased, the service and publication of the notice by him, as above directed, and that no claim has been made according to law, and that he has taken upon himself the administration of the estate of the deceased. Upon filing such affidavit, the public administrator shall be vested with all the rights and powers, and be subject to all the duties of an administrator of the estate of the deceased, in the same manner as if letters of administration had been granted. Such affidavit, and a duly certified copy thereof, shall be presumptive evidence of the facts therein contained, and that administration of the estate of the deceased has been committed to the public administrator according to law.

Effect of filing
affidavit.

2 R. S. ch. 6,
title 6, art. 1,
§28.
Powers of ad-
ministrator be-
fore letters, etc.

§ 233. Until letters of administration shall be granted to the public administrator, or until an affidavit shall be filed by him as above directed, he shall not proceed in the administration of any estate, further than to pay funeral charges of the deceased, to take possession of and secure his effects as hereinbefore authorized, to sell such of them as shall be perishable, and to defray the expenses of such proceedings, and of serving and publishing notices, and of taking out letters of administration.

Id. §29.
Notice to be
given to foreign
consuls.

§ 234. Whenever the deceased, of whose estate the public administrator is authorized to take charge, shall be a foreigner, and shall not have become naturalized, or taken any steps for that purpose, it shall be the duty of the public administrator to serve upon the consul of the nation to which the deceased belonged, if any there be in the city, the notice of his intention to apply for letters of administration, and of his intention to administer, hereinbefore specified, in the same manner as they are herein directed to be served upon the widow or relative of the deceased.

Id. §20.
Comp. 242.
Assets to be de-
livered to law-
ful executor,
etc.

§ 235. If any lawful executor or administrator shall appear to claim the effects of the deceased, at any time before the public administrator becomes vested with the power of administering such effects, he shall, on producing the letters testamentary or of administration, be entitled to receive the goods and effects of the deceased in the hands of the public administrator, after deducting the charges specified in section two hundred and twenty-

nine hereof, to be allowed and taxed by the surrogate as therein directed.

§ 236. The powers and authority of the public administrator, in relation to the estate of any deceased person, shall be superseded in the three following cases :

Id. §31.
Powers of public administrator, when superseded.

1. Where letters testamentary shall be granted to any executor of a will of any deceased person, either before or after the public administrator shall have taken letters, or become vested with the powers of an administrator upon such estate.

2. Where letters of administration of such estate shall have been granted to any other person, before the public administrator became vested with the powers of an administrator upon the same estate.

3. Where letters of administration shall be granted upon such estate, by any surrogate having jurisdiction, at any time within six months after the public administrator became vested with the powers of an administrator upon such estate.

1 Barb. ch. 302.

§ 237. If any relative of deceased entitled to administration on his estate, being competent and qualified according to law, shall, within three months after the public administrator has become vested with the powers of an administrator on such estate, apply to the surrogate of New York for letters of administration, the same shall be granted to him, upon proof to the surrogate that the applicant did not reside in the city at the time of the death of the intestate; or that, residing in the said city, no notice was served on him as herein required. Upon notice being given to the public administrator of the granting such letters testamentary, or letters of administration, in either of the cases aforesaid, by producing to him duly attested copies thereof, his powers and authority in relation to such estate shall cease; and he shall deliver over to the executor or administrator so appointed the property, moneys and effects in his hands belonging to the said estate, after deducting his commissions on the moneys received by him, at the rate hereinbefore allowed, and the expenses incurred by him in section two hundred and twenty-nine hereof, to be allowed and taxed as therein directed.

Id. §32.
1 Barb. ch. 302.

2 R. S. ch. 6,
title 6, art 1,
§33.
Assets to be delivered.

§ 238. No suit that shall have been commenced by the public administrator shall abate on account of his authority having ceased for any cause; but the same may be continued by his successor, or the executor or administrator of the deceased, who shall succeed him in the administration of the estate, in relation to which such suit shall have been brought.

Id. §34.
Suits not to abate.
2 Edw. 490.

§ 239. Whenever the public administrator shall become vested with the right of administering upon any estate as herein pro-

Id. §35.
Comp. 243.

Rights, powers,
and duties of
public adminis-
trator.

vided, he shall possess the following rights and powers, and be subject to the following obligations :

1. He shall have all the rights, powers, and authority given by law to any administrator, except so far as the same may be qualified by the succeeding provisions.
2. He may, like any other administrator, sue and be sued.
3. He shall make and return an inventory in all cases, in the same manner and within the same time as is required by law of other administrators; and the same proceedings may be had to compel such return.
4. He may sell the personal property of the deceased at public auction, after publishing notice thereof three days, daily, in a newspaper in the city of New York; but he shall not sell any property exceeding five hundred dollars in value, without having given such notice daily for fourteen days.
5. He shall not sell any public stock, or stock in any incorporated company, unless for the payment of debts, and on the order of the surrogate, to be duly entered in his records.
6. In all cases where the estate of any deceased person in his hands shall exceed the value of two hundred and fifty dollars, he shall give notice to the creditors of the deceased to exhibit their claims, by a publication once in each week for eight weeks, in a newspaper printed in the said city, and in the State paper.
7. He may, in his discretion, proceed as other administrators are allowed by law to compel creditors to exhibit their claims, and with the like effect in all respects.
8. He shall adjust and pay all demands against the estate of the deceased, in the same manner as other administrators; and like them, may refer all disputes respecting such demands.
9. One year after he shall have become vested with the right of administering upon any estate, he shall account on oath to the surrogate for all assets of such estate received by him, and for the application thereof; and the same proceedings may be had to compel such account as are provided by law in the case of administrators.
10. He may, in his discretion, proceed as other administrators are allowed by law, after the expiration of twelve months from the time he became vested with the powers of an administrator on any estate, to have a final settlement of his accounts in relation to such estate, and with the like effect.
11. In the settlement of his accounts, he shall not be allowed for any payments made by him, unless, in addition to the other vouchers therefor, it shall appear that the same were made on a joint check, signed by himself and the comptroller of the city, upon the bank in which his deposits are required to be made;

excepting that he may be allowed for current expenses authorized by law, not to exceed twenty dollars in any one case.

12. In the settlement of his accounts, he shall not be allowed for any demand which he may have against the estate of the deceased, unless such demand was specified in writing to the surrogate at the time of applying for letters of administration, or at the time of filing the affidavit herein required to vest him with the rights of an administrator, nor unless it shall appear that he had such demand, or that his responsibility, on which it may be founded, existed, previous to the death of the person against whose estate it may be exhibited.

13. He shall pay all legacies and shares of the estate of the deceased, according to the decrees of the surrogate :

14. The balance of any money remaining in his hands on the adjustment of his accounts, shall be paid into the treasury of the city; and he shall transfer and deliver to the corporation of the said city all public stocks, and all stock in any incorporated company belonging to the estate of the deceased.

§ 240. The public administrator shall deposit all moneys by him collected and received, within two days after the receipt thereof, in the bank designated in pursuance of law, to the joint credit of himself and the comptroller of the city, excepting so much as may be necessary to pay the current expenses of any proceedings authorized by law, which shall be allowed by the surrogate, and shall not exceed twenty dollars in any one case. The moneys so deposited shall be drawn out only on the joint check of the public administrator and the said comptroller, in the cases where by law the public administrator is required to pay out moneys. The comptroller shall preserve a register of all checks signed by him, as a part of the documents of his office.

2 R.S. ch. 6, title
6 art. 1, §§36, 37.
Comp. 244.
Deposit of
moneys.
See 1873, ch.
333, §35.
How drawn
out.

§ 241. The public administrator may at any time advance to any relative of the deceased such portion of the share of any estate to which he may be entitled, not exceeding fifty dollars, as in the opinion of the surrogate may be necessary for the support of such relative.

Id. §38.
Advances to
relatives.

§ 242. The public administrator shall exhibit to the board of aldermen, on the first day of January in each year, or within fourteen days after that day, a statement, on oath, of the moneys received by him for commissions and expenses, and of the total amount of his receipts and expenditures, in each case in which he shall have taken charge of and collected any effects, or in which he shall have administered on any estate during the preceding year, with the name of the deceased, his addition, the place of his residence at the time of his death, if the same be known, and the country or place from which he came, if he was

Id. §§39, 40.
Annual ac-
count of public
administrator.

To be published.

not a resident of this State at the time of his death. The public administrator shall cause the said statement to be published for three weeks, daily, in a newspaper in the city, and twice in each week in the State paper; the expense of which shall be deducted by him from the balance in his hands, payable to the city treasury.

2 R. S. ch. 6,
title 6, art. 1,
§41, Comp. 245.
Penalty for
omissions.
42 N. Y. 251;
Hun. 232.

§ 243. If any public administrator shall neglect to render or to publish such statement, as hereinbefore required, he shall forfeit five hundred dollars, to be recovered by the attorney-general, for the use of this State; and on such recovery being had, he shall forfeit his office, and be thereafter incapable of being appointed to the same.

Id. §§42, 43.
Responsibility
of corporation
4 Sand. 1; 42
N. Y. 254;
56 How. 178.
Id.
2 Sand. ch. 173.

§ 244. The mayor, aldermen, and commonalty shall, in all cases, be responsible for the application of all moneys received by the public administrator, according to law, and for the due and faithful execution of all the duties of his office. The said corporation shall also be answerable for all stock transferred by the public administrator, and the dividends received thereon, and for all moneys paid into the city treasury by him, or which ought to be so transferred or paid in according to law, after deducting therefrom the commissions allowed by law; but not for any interest on such moneys, or dividends on stock. All persons who shall be entitled to receive such moneys and stock, as creditors, legatees, or relatives of the deceased, and all persons aggrieved by any unauthorized acts or omissions of the public administrator, shall have the same remedies against the said corporation for the same as they would have against any executor.

Id. §44.
Papers, etc., to
be delivered to
successor.

§ 245. Whenever the public administrator shall resign, or be removed from his office, he shall immediately deliver over all papers, money, and effects in his hands to his successor; and in case of the death of such officer, the persons into whose custody or possession any such papers, money, or effects may come, shall, on demand, deliver the same to the successor duly appointed. Such delivery may, in either case, be enforced in the manner provided in chapter fifth of the first part of the revised statutes, in relation to public officers.

Id. §45,
as amended
1896, ch. 802.
Report of
deaths in
hotels, etc.

§ 246. Every person keeping a hotel, or boarding or lodging-house in the city, shall report in writing to the public administrator the name of every person not a member of his family, who shall die in his or her house, within twelve hours after such death; and every coroner, within twelve hours after an inquest, shall report to the public administrator the name, if known, of the deceased person. Every undertaker shall also report to the public administrator within twelve hours after burial by him, any deceased person having no next of kin known to him to be

entitled to administer, the name and residence of such deceased person. Whoever shall neglect to comply with this provision shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be punishable by imprisonment in the penitentiary for a period not exceeding six months nor less than one month, or by a fine of one hundred dollars, one moiety of which shall be given to the informer and the other moiety paid into the city treasury.

§ 247. The public administrator shall cause a copy of the last section to be left at every boarding and lodging house in the city, at least once in each year; and he shall not be entitled to recover of any person the penalty given by the last section, without due proof of the service of a copy of that section, personally on the defendant, previous to the neglect for which such suit may be brought, and within one year before the commencement of such suit.

2 R. S. ch. 6,
title 6, art. 1,
§46, Comp. 246.
Penalty for
neglect, when
to be recovered.

§ 248. In all actions or proceedings, in either the State or United States courts, in which the mayor, aldermen, and commonalty, or any department thereof, shall be a party, wherever an undertaking, bond, security, or stipulation is required as a condition to the obtaining of any legal remedy or process, the perfecting of an appeal or the stay of execution, or other writ in the nature thereof, such undertaking, bond, or stipulation may be executed on behalf of the mayor, aldermen, and commonalty by the comptroller, upon the advice of the counsel to the corporation that the same should be executed, and in such form as he may approve; or security may be given in such manner and form as the said counsel to the corporation may advise. Any such bond, undertaking, or stipulation executed since the first day of January, one thousand eight hundred and eighty, shall have the same force and effect as if executed subsequent to the passage of this act. This section shall not affect any existing provision of law authorizing municipal corporations to stay the execution of a judgment, or order appealed from without an undertaking or other security.

1880, ch. 8, §§1, 2, 3
Bond or other
security may be
executed by
comptroller.

Bonds, etc.,
legalized.

Not to affect
existing pro-
visions of law.

§ 249. The attorney for the collection of arrears of personal taxes shall, before entering upon the duties of his office, execute a bond to the mayor, aldermen, and commonalty, with one or more sureties, to be approved by the mayor, comptroller, or counsel to the corporation, in the penal sum of ten thousand dollars, conditioned for the faithful performance of the duties of his office, and the payment over of all taxes collected by him, which bond shall be filed in the comptroller's office.

1867, ch. 334, §2.
Comp. 585.
His bond.

CHAPTER VIII.

POLICE DEPARTMENT.

1873, ch. 335, § 41,
Comp. 249.
Id. § 50.
Comp. 252.
Rules, etc., en-
actment, modi-
fication and
repeal of.
1873, ch. 335, § 48,
Comp. 251.
Board of police
may issue sub-
poenas, ex-
amine wit-
nesses, etc.

§ 250. The government and discipline of the police department shall be such as the board of police may from time to time, by rules and regulations, prescribe. The board are empowered, in their discretion, to enact, modify, and repeal, from time to time, orders, rules, and regulations of general discipline of the subordinates under their control, but in strict conformity to the provisions of this chapter.

§ 251. The board of police shall have power to issue subpoenas, tested in the name of its president, to compel the attendance of witnesses upon any proceedings authorized by its rules and regulations. Each commissioner of police, the superintendent thereof, and the chief clerk and deputy thereof, are hereby authorized and empowered to administer affirmations and oaths to any person summoned and appearing in any matter or proceeding, authorized as aforesaid, and in all matters pertaining to the department or the duties of any officer, or to take any depositions necessary to be made under the orders, rules, and regulations of the board of police, or for the purposes of this chapter. Any person making a complaint that a felony or misdemeanor has been committed, may be required to make affirmation or oath thereto, and for this purpose the inspectors, captains and sergeants of police shall have power to administer affirmations and oaths. Any willful or corrupt false swearing, by any witness or person, to any material fact in any necessary proceeding under the said orders, rules, and regulations, or under this chapter, shall be deemed perjury, and punished in the manner now prescribed by law for such offense.

1864, ch. 403, § 70,
Comp. 262.
Enforcement
of ordinances.

§ 252. The board of police shall at all times cause the ordinances of the city of New York, not in conflict with law, to be properly enforced. And it shall be the duty of said board at all times, whenever consistent with the rules and regulations of the board, and with the requirements of this chapter, to furnish all information desired.

1873, ch. 335, § 54,
Comp. 252.
Accommoda-
tions for deten-
tion of wit-
nesses, etc.

§ 253. The board of police shall provide suitable accommodations for the detention of witnesses who are unable to furnish security for their appearance in criminal proceedings, to be called

the house for the detention of witnesses; and such accommodation shall be in premises other than those employed for the confinement of persons charged with crime, fraud, or disorderly conduct, and be in command of a sergeant of police. And it shall be the duty of all magistrates, when committing witnesses in default of bail, to commit them to such house of detention of witnesses now or hereafter to be used for such purpose.

§ 254. The board of police may, with the authority and approval of the mayor and common council from time to time, but with special reference to locating the same as centrally in precincts as possible, establish, provide, and furnish stations and station-houses, or sub-stations, and sub-station houses, at least one to each precinct, for the accommodation thereof of members of the police force, and as places of temporary detention for persons arrested and property taken within the precinct; and shall also provide and furnish such business accommodations, apparatus, and articles, and provide for the care thereof, as shall be necessary for the department of police and the transaction of the business of the department.

1873, ch. 335, § 19.
Comp. 251.
Station-houses,
etc., establish-
ment of.

§ 255. The board of 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 city as for the purposes and business of the police the board shall deem necessary. Said board may procure 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 police. The board of police is hereby permitted to use the said telegraph lines to aid them in facilitating the operations of the department of health, and when so used the expense thereof shall be charged to the said department of health.

1867, ch. 256, § 21.
Comp. 268.
Telegraphs for
police pur-
poses.

§ 256. In the performance of police service in any precinct or precincts comprising waters of the harbor, the board of police may procure and use and employ such row-boats and steam-boats as shall be deemed necessary and proper. In rural or sparsely inhabited precincts they may establish a mounted patrol, and procure and use and employ so many horses and equipments as shall be requisite for the purpose; and they may procure and cause to be used any teams and vehicles required to transport prisoners, supplies and property, whenever it shall be proper and economical to do so; and may sell and dispose of in accordance with law any personal property owned or used in the department whenever it shall have become old and unfit, and not required for service. And they shall have authority to detail and employ patrolmen in any duty or service other than patrol

1867, ch. 806, § 11.
Comp. 263.
Powers of
police to em-
ploy row-boats.
See 1873, ch. 335,
§ 92, Comp. 92.

duty, which may be necessary and proper to enable said board to exercise the powers and perform the duties and business imposed and required by law.

1873, ch. 338, §18.
Comp. 1403.
Board of police
to have experi-
enced person
attend courts.

§ 257. It shall be the duty of the board of police to cause some intelligent and experienced person connected with the police force to attend at the police courts in cases where there is need of such assistance, who shall, to such extent as the rules of the board of police justices may reasonably require, aid in bringing the facts before the police justices in proceedings pending in such police courts.

1867, ch. 806, §8.
Comp. 263.
See 1873, ch. 335.
§49.

§ 258. It shall be the duty of the board of police, and said board is hereby empowered to provide for the lodging of vagrant and indigent persons.

1867, ch. 806, §7.
Comp. 262.

§ 259. The board of police shall have authority to offer rewards to induce all classes of persons to give information which shall lead to the detection, arrest, and conviction of persons guilty of homicides, arsons, or receiving stolen goods, knowing them to be stolen; and to pay such rewards to such persons as shall give such information.

1872, ch. 675, §7.
Comp. 799.

§ 260. It is hereby made the duty of the board of police to continue the bureau in the office of the department of police, known and designated as the bureau of elections. The affairs of said bureau shall, under and subject to such rules, regulations and orders as may from time to time be made and adopted by said board of police, be managed, conducted, and carried on by a suitable and proper person, chosen and selected by said board, who shall be known as the chief of the bureau of elections, shall hold office for the period of three years, and whose salary shall be fixed and paid by said board, at such sum as they shall deem proper, not exceeding five thousand dollars, and shall be removable by the board of police for cause. It shall be the duty of the board of police to perform all the duties imposed upon them in sections eighteen hundred and forty-five, eighteen hundred and forty-six, eighteen hundred and forty-seven, eighteen hundred and fifty, eighteen hundred and fifty-two, eighteen hundred and fifty-three and eighteen hundred and seventy-three.

To appoint a
chief of the
bureau of
elections.

Term of office
and salary.
Removable for
cause.
As to elections.

1866, ch. 73, §17.
Comp. 434.
Police board to
advise health
board of
danger.
See 41 N. Y.
Supr. 323.
1867, ch. 956,
§21, Comp. 268.

§ 261. It shall be the duty of the board of police (and of its officers and men, as said board shall direct), to promptly advise the 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 ordinances, and of the health laws and all useful sanitary information. Said 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 city. It shall be the duty of said board

of police, 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. Said board of police 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. 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 board of police, 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. The board of health may, with the consent of the board of police, impose any portion of the duties of subordinates in said department upon subordinates in the police department.

Powers of police in their enforcement of sanitary rules.

1873, ch. 335, §81.
Comp. 423.

§ 262. The police department, through its treasurer, and in pursuance of the orders, rules, and regulations of the board, shall pay all salaries and wages to the officers and members of the police department and force, as established by and in pursuance of law, and all bills, claims, and obligations lawfully incurred by or by authority of said board; and the comptroller shall pay over to the treasurer of police, on the requisition of the board of police, the total amount annually estimated, levied, raised, and appropriated for the support and maintenance of the police department and force, from time to time, and in such sums as shall be required (not exceeding one-twelfth part of said total annual amount in any one month), and the treasurer of police, if required by the comptroller, shall transmit to the department of finance, each month, duplicate vouchers for the payment of all sums of money made on account of the police department during each month. The board of police shall procure and pay for all printing, books, blanks, paper, and other articles of stationery required for the administration and business of the department and each bureau thereof.

1873, ch. 735, §7.
Comp. 257.
Payment of salaries, etc.

Books, etc.

§ 263. Any one of the commissioners, or any member of the police force, who shall, after qualifying in office, accept any additional place of public trust, or civil emolument, or who shall during his term of office be publicly nominated for any office elective by the people, and shall not within ten days suc-

1864, ch. 41, §6,
as amended.
1869, ch. 330 §2.
Comp. 272. |
Acceptance of nomination for elective office to vacate office.

Votes thus cast
to be void.

1864, ch. 403, §18.
Comp. 259.
President of the
board, powers
and duties.
Id. §19.
Treasurer.

1873, ch. 335, §57.
Comp. 253.
Treasurer to
give bond.

1873, ch. 735, §1.
Comp. 256.
1873, ch. 335, §40.
Comp. 249.
Police force,
of whom to
consist.
See 1873, ch.
335, §40.

Increase of.

1864, ch. 403, §18.
Comp. 259.

1873, ch. 335, §68.
Comp. 255.
Designating
person to act in
case of illness,
etc., of
superintendent.

1873, ch. 335, §60.
Comp. 253.
Police sur-
geons' duties
and districts.
1867, ch. 356, §21.
Comp. 248.

ceeding the same publicly decline the said nomination, shall be in either case deemed thereby to have resigned his commission and to have vacated his office, and all votes cast at any election for any person holding the office of police commissioner, or within thirty days after he shall have resigned such office, shall be void.

§ 264. The commissioners of police shall annually, or as often as a vacancy shall occur, elect one of their number to act as the president of the board of police. He shall preside at the meetings of the board. They shall select one of their number to be the treasurer of police. He shall be the fiscal officer of the police. He shall, on check and voucher, duly disburse, by order of the said police board, all moneys belonging to the police fund, and shall deposit the same, when paid to him, in a bank or banks designated by said board. The treasurer shall give a bond, with two sureties, in the sum of twenty thousand dollars each, for the faithful performance of his duties; said bond to be approved by the comptroller and filed in his office.

§ 265. The police force shall consist of one superintendent of police, four inspectors of police; captains of police, not exceeding in number one to each fifty of the total number of patrolmen; sergeants of police, not exceeding four in number to each fifty of the total number of patrolmen; doormen of police, not exceeding two in number to each fifty of the total number of patrolmen; not exceeding twenty-two surgeons of police, one of whom shall be designated as chief surgeon; and patrolmen to the number of two thousand three hundred. The board of police shall have power to increase the police force by adding to the number of patrolmen from time to time, as far as the funds appropriated allow, but such increase shall not exceed one hundred in any one year.

§ 266. Whenever a vacancy shall occur in the office of superintendent of police, and in the absence or disability of the said superintendent, the president shall possess all the powers and perform all the duties of that office, subject to the orders, rules, and regulations of the board of police. But the commissioners of police may, by resolution, designate such other officer of the police force as they may choose to excuse and perform the duties of the superintendent during the period of such absence or disability.

§ 267. The duties of the police surgeons, and the extent and bounds of their districts, shall be assigned, from time to time, by the rules and regulations of the board of police. 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.

§ 268. No person shall ever be appointed to membership in the police force, or continue to hold membership therein, who is not a citizen of the United States, or who has ever been convicted of crime, or who cannot read and write understandingly in the English language, or who shall not have resided within the State one year, but skilled officers of experience may be appointed for detective duty who have not resided as herein required. No person shall be appointed patrolman who shall be at the date of such appointment over thirty years of age, or who shall have been convicted of any crime; nor shall any person who shall have been a member of the force and resigned, or been dismissed therefrom be reappointed, except by the concurring vote of all the commissioners comprising the board, to be taken by yeas and nays, and recorded in the minutes. The name, residence, and occupation of each applicant for appointment to any position in the police department, as well as the name, residence, and occupation of each person appointed to any position, shall be published, and such publication shall, in every instance, be made on the Saturday next succeeding such application or appointment in the City Record.

1873, ch. 335, §44.
Comp. 250.
Qualifications
for membership
See 1873, ch.
733, §3.

1873, ch. 775, §3.
Comp. 257.
72 N. Y. 415.

§ 269. The board of police may, upon an emergency or apprehension of riot, tumult, mob, insurrection, pestilence, or invasion, appoint as many special patrolmen without pay from among the citizens as it may deem desirable. The board of police, with the approbation in writing of the mayor, or, in case of their disagreement, the governor, may, under similar circumstances, demand the assistance of the military of the first division, or of any brigade, regiment, or company thereof, by order in writing, served upon the commanding officer of such division, and such commanding officer shall obey such order. Special patrolmen, appointed in pursuance of law, may be dismissed by resolution of the board; and while acting as such special patrolmen shall possess the powers, perform the duties, and be subject to the orders, rules, and regulations of the board, in the same manner as regular patrolmen. Every such special patrolman shall wear a badge, to be prescribed and furnished by the board of police.

1873, ch. 335,
§45, Comp. 250.
Special patrol-
men.
Military
assistance.

1873, ch. 755, §4.
Comp. 257.
Qualifications
of policemen.
1873, ch. 335,
§46, Comp. 251.

§ 270. Every member of the police force shall have issued to him, by the board of police, a proper warrant of appointment, signed by the president of said board and chief clerk or first deputy, which warrant shall contain the date of his appointment and his rank. Each member of the police force shall, before entering upon the duties of his office, take an oath of

1873, ch. 335,
§56, Comp. 253.
Warrants of
appointment.

Id. §57.
Official oath.

office, and subscribe the same before any officer of the police department who is empowered to administer an oath.

1873, ch. 755, §2.
Comp. 256.

§ 271. Promotions of officers and members of the police force shall be made by the board only on grounds of meritorious police service and superior capacity, and shall be as follows: Sergeants of police shall be selected from among patrolmen assigned to duty as roundsmen; captains from among sergeants; and inspectors from among captains.

1873, ch. 335
§55, Comp. 253.
Dismissals,
etc., from
police force.
2 N. Y. 415;
30 Hun. 333, 402.

§ 272. The board of police shall have power, in its discretion, on conviction of a member of the force of any legal offense or neglect of duty, or violation of rules, or neglect or disobedience of orders, or absence without leave, or any conduct injurious to the public peace or welfare, or immoral conduct, or conduct unbecoming an officer, or other breach or discipline, to punish the offending party by reprimand, forfeiting and withholding pay for a specified time, or dismissal from the force; but no more than thirty days' pay shall be forfeited for any offense. All such fines shall be paid forthwith to the treasurer of the department to the account of the police life insurance fund. Members of the police force shall be removable only after written charges shall have been preferred against them, and after the charges have been publicly examined into, upon such reasonable notice to the person charged, and in such manner of examination as the rules and regulations of the board of police may prescribe.

1873, ch. 335, §41.
Comp. 250.
67 N. Y. 473.

§ 273. No member of the police force, under penalty of forfeiting the salary or pay which may be due to him, shall withdraw or resign, except by permission of the board of police. Unexplained absence, without leave, of any member of the police force, for five days, shall be deemed and held to be a resignation, and the member so absent, shall, at the expiration of said period, cease to be a member of the police force.

1873, ch. 335, §47.
Comp. 251.
Resignations,
etc.
See 1873, ch. 755,
§4.
1873, ch. 765, §5.
Comp. 257.

§ 274. Every person connected with the police department on the thirtieth day of April, eighteen hundred and seventy-three, and who remains so connected shall continue in office, and the amount of salary or compensation then legally paid to such person, except as in this act otherwise provided or authorized, shall be the salary and compensation fixed for his office; but the commissioners may fix the salary and compensation of such clerks and employees other than policemen whom they may be authorized by law to employ.

1873, ch. 335, §43.
Comp. 250.
1873, ch. 755, §2.
Comp. 250.
Present force
and pay
continued.
75 N. Y. 38;
17 Hun. 286;
77 N. Y. 347.

§ 275. No person holding office under this department shall be liable to military or jury duty, and no officer or patrolman while actually on duty shall be liable to arrest on civil process, or to service of subpoena from civil courts.

1873, ch. 335 §53.
Comp. 252.
Exemption
from jury and
military duty.

§ 276. No member of the board of police, under any pretense whatsoever, shall, for his own benefit, share in any present, fee.

1894, ch. 408, §64.
Comp. 282.

gift or emolument, for police services, additional to his regular salary or compensation. The board of police, for meritorious and extraordinary services rendered by any member of the police force in the due discharge of his duty, may permit any member of the police force to retain for his own benefit any reward or present tendered him therefor; and it shall be cause of removal from the police for any member thereof to receive any such reward or present without notice thereof to the board of police. Upon receiving said notice, the said board may either order the said member to retain the same, or shall dispose of it for the benefit of the police life insurance fund.

Members not to receive gifts. Id. 65.

Authority to take rewards.

§ 277. The several members of the police force shall have power and authority to immediately arrest, without warrant, and to take into custody, any person who shall commit, or threaten, or attempt to commit, in the presence of such member, or within his view, any breach of the peace or offense directly prohibited by act of the legislature, or by any ordinance of the city. The members of the police force shall possess, in the city of New York and in every part of this State, all the common law and statutory powers of constables, except for the service of civil process, and any warrant for search or arrest, issued by any magistrate of this State, may be executed, in any part thereof, by any member of the police force, and all the provisions of sections seven, eight, and nine of chapter two, title two, part four of the revised statutes, in relation to the giving and taking of bail, shall apply to this chapter.

1864, ch. 403, § 30, Comp. 259. Arrests without warrant.

1873, ch. 335, § 51, Comp. 252. General powers of police force.

§ 278. Any member of the police force, as the regulations of said boards may provide, may arrest any person who shall, in view of such member, violate, or do, or be engaged in doing or committing in said city, any act or thing forbidden by chapter twelve of this act, or by any law or ordinance, the authority conferred by which is given to the board of health, or who shall, in such presence, resist or be engaged in resisting the enforcement of any of the 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.

1866, ch. 74, § 14, Comp. 432. Arrest for violations of act.

Violations of act, misdemeanors.

§ 279. In every case of arrest by any member of the police force, the same shall be made known immediately to the superior on duty in the precinct wherein the arrest was made, by the person making the same; and it shall be the duty of the said superior, within twenty-four hours after such notice, to make written return thereof, according to the rules and regulations of the board of police, with the name of the party arrested, the alleged offense, the time and place of arrest, and the place of detention. Each member of the police force, under the penalty of

1864, ch. 403, § 30, Comp. 260. Returns of arrests.

1873, ch. 335, § 32, Comp. 252. To convey offenders before nearest

sitting magis-
trate.
When detained
at station-
house.

ten days' fine, or dismissal from the force, at the discretion of the board, shall, immediately upon an arrest, convey in person the offender before the nearest sitting magistrate, that he may be dealt with according to law. If the arrest is made during the hours that the magistrate does not regularly hold court, or if the magistrate is not holding court, such offender may be detained in a station-house or precinct thereof, until the next regular public sitting of the magistrate, and no longer, and shall then be conveyed without delay before the magistrate, to be dealt with according to law. And it shall be the duty of the said board, from time to time, to provide suitable rules and regulations to prevent the undue detention of persons arrested, which rules and regulations shall be as operative and binding as if herein specially enacted, subject, however, to the order of the court committing the person arrested.

1864, ch. 403, § 43.
Comp. 261.
Penalty for re-
sisting police-
men by force,
or for falsely
personating
policeman.

§ 280. It shall be a misdemeanor, punishable by imprisonment 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, without justifiable or excusable cause, to use, or to incite any other person to use personal violence upon any member of the police thereof, when in the discharge of his duty, or for any member of the police force to willfully neglect making any arrest for an offense against the law of this State, or ordinance in force in the city of New York, or for any person not a member of the police force to falsely represent himself as being such member, with a fraudulent design upon persons or property, or upon any day or time to have, use, wear, or display, without authority, any shield, buttons, wreaths, numbers, or other insignia or emblem, such as are worn by the police.

1864, ch. 403, § 22.
Comp. 259.

§ 281. It shall be a misdemeanor for any person not being a regular member of the police, established in any city of this State, or a member of the police force, of the city of New York, or a constable of this State, or a police constable, or assistant police constable or a sheriff, or one of the usual general deputies of any sheriff of this State, to serve any criminal process within the said city.

Misdemeanor
for persons not
members of po-
lice force to
serve process.
1867, ch. 806, § 14.
Comp. 263.

§ 282. It is hereby made the duty of the police force, at all times of day and night, and the members of such force are hereby thereunto empowered, to especially preserve the public peace, prevent crime, detect and arrest offenders, suppress riots, mobs, and insurrections, disperse unlawful or dangerous assemblages, and assemblages which obstruct the free passage of public streets, sidewalks, parks, and places; protect the rights of persons and property, guard the public health, preserve order at elections and all public meetings and assemblages, prevent and regulate the

movement of teams and vehicles in streets; and remove all nuisances in the public streets, parks, and highways; arrest all street mendicants and beggars; provide proper police attendance at fires; assist, advise, and protect emigrants, strangers, and travelers in public streets, at steamboat and ship landings, and at railroad stations; carefully observe and inspect all places of public amusement, all places of business having excise or other licenses to carry on any business; all houses of ill fame or prostitution, and houses where common prostitutes resort or reside; all lottery offices, policy shops, and places where lottery tickets or lottery policies are sold or offered for sale; all gambling-houses, cock-pits, rat-pits, and public common dance-houses, and to repress and restrain all unlawful or disorderly conduct or practices therein; enforce and prevent the violation of all laws and ordinances in force in said city; and for these purposes, with or without warrant, to arrest all persons guilty of violating any law or ordinance for the suppression or punishment of crimes or offenses.

Duty of the
police force.

§ 283. The superintendent of police, and each captain of police within his precinct, shall possess powers of general police supervision and inspection over all licensed or unlicensed pawnbrokers, venders, junk-shop keepers, junk-boatmen, cartmen, dealers in second-hand merchandise, intelligence-office keepers, and auctioneers, within the said city; and in the exercise of and in furtherance of said supervision, may from time to time empower members of the police force to fulfil such special duties in the aforesaid premises as may be from time to time ordained by the board of police. The said superintendent, and each captain within his precinct, may, by authority in writing, empower any member of the police force, whenever such member shall be in search of property feloniously obtained, or in search of suspected offenders, or evidence to convict any person charged with crime, to examine the books of any pawnbroker, or his business premises, or the business premises of any licensed vender, or licensed junk-shop keeper, or dealer in second-hand merchandise, or intelligence-office keeper, or auctioneer, or boat of any junk-boatman. Any such member of the police, when thereto authorized in writing by the said superintendent, shall be authorized to examine property alleged to be pawned, pledged, deposited, lost or stolen, in whosesoever possession said property may be; but no such property shall be taken from the possessor thereof without due process or authority of law. Any willful interference with the said superintendent or captain of police, or with any member of the police force, by any of the persons hereinbefore named in this section, whilst in official discharge of duty, shall be punished as a misdemeanor.

1864, ch. 403, §40,
Comp. 260.
General powers
over certain
kinds of trade.

Searches.

Interference
with search a
misdemeanor

§ 284. The superintendent of police and captains of police

and persons acting by their, or by either of their orders, shall have power to examine the books of any pawnbroker, his clerk or clerks, if they deem it necessary, when in search of stolen property, and any person having in his possession a pawnbroker's ticket, shall, when accompanied by a policeman, or by an order from the superintendent of police or captain of police, be allowed to examine the property purporting to be pawned by said ticket; but no property shall be removed from the possession of any pawnbroker without the process of law required by the existing laws of this State, or the laws and ordinances of the city regulating pawnbrokers. A refusal or neglect to comply in any respect with the provisions of this section, on the part of any pawnbroker, his clerk or clerks, shall be deemed a misdemeanor, and punishable as such.

1864, ch. 403, § 41,
Comp. 260.
Suppression of
gaming houses
and lewd and
obscene
exhibitions.

§ 285. If any member of the police force, or if any two or more householders shall report in writing, under his or their signature, to the superintendent of police, that there are good grounds (and stating the same) for believing any house, room, or premises within the said city to be kept or used as a common gaming house, common gaming room, or common gaming premises, for therein playing for wagers of money at any game of chance, or to be kept or used for lewd and obscene purposes or amusements, or the deposit or sale of lottery tickets or lottery policies, it shall be lawful for the superintendent of police to authorize, in writing, any member or members of the police force to enter the same, who may forthwith arrest all persons there found offending against law, but none others; and seize all implements of gaming, or lottery tickets, or lottery policies, and convey any person so arrested before a magistrate, and bring the articles so seized to the office of the property clerk. It shall be the duty of the said superintendent of police to cause such arrested person to be rigorously prosecuted, and such articles seized to be destroyed, as the orders, rules, and regulations, of the board of police shall direct.

1873, ch. 335, § 58,
Comp. 253.
Id. § 59.
Detail of patrol-
men at polls.
To prevent
booths, etc.,
being erected
near polling
places.

§ 286. It shall be the duty of the superintendent of police to detail, on each day of election, at least two patrolmen to each election poll. It shall be the duty of the police force, or any member thereof, to prevent any booth, or box, or structure for the distribution of tickets at any election from being erected or maintained within one hundred and fifty feet of any polling place within the city, and to summarily remove any such booth, box, or structure, or close and prevent the use thereof.

1864, ch. 403, § 63,
Comp. 261.
Salaries.
See 1873 ch. 335,
§ 43; 17 Hun, 286;

§ 287. The annual salaries and compensation of the members of the police force who became members of such force before May twenty-ninth, eighteen hundred and eighty, shall be as follows: Of the superintendent, six thousand dollars; of the

inspectors, thirty-five hundred dollars each; of police surgeons, twenty-two hundred and fifty dollars each; of the captains, two thousand dollars each, and of the sergeants, sixteen hundred dollars each; the pay of each such patrolman shall be at the yearly rate of twelve hundred dollars, and that of doorman at the rate of nine hundred dollars per year each. The salary attached to either of the following positions shall not exceed the sum here designated as the maximum salary of such position when held by any person appointed to the said police force on or after May twenty-ninth, eighteen hundred and eighty, to wit: For an inspector, three thousand dollars; for a captain, eighteen hundred dollars; for a surgeon, fifteen hundred dollars; for a sergeant, twelve hundred and fifty dollars. The members of the uniform force of the police department appointed to said force after May twenty-ninth, eighteen hundred and eighty, shall, on their appointment, become members of what shall be known as the third grade, at a salary of eight hundred dollars per year; after two years of service in such third grade, they shall, if their conduct and efficiency have been satisfactory, be advanced to what shall be known as the second grade, at a salary of nine hundred dollars per year; after two years' service in such grade, they shall, on like conditions, be advanced to what shall be known as the first grade, at a salary of one thousand dollars per year. But no member of such uniform force shall be so advanced as aforesaid, except after examination by and approval of the said board of police of his record, efficiency, and conduct. The salaries and pay aforesaid shall be paid monthly to each person entitled thereto, in modes to be prescribed by the rules and regulations, subject to such deductions each month from the salary or pay of members of the force as the treasurer shall make (and which deductions he is hereby authorized to retain) to satisfy fines imposed on any member of the force, by way of discipline or punishment, as prescribed by the rules and regulations of the board.

75 N. Y. 33;
77 N. Y. 347.
See 1873, ch. 335,
§116.

1880, ch. 321, §2.
Grades and salaries in each.

1864, ch. 403,
§63, as amended
1866, ch. 861,
1873, ch. 335,
Comp. 261.

§ 288. The commissioners of police may designate some person to take charge of all property alleged to be stolen or embezzled, and which may be brought into the police office, and all property taken from the person of a prisoner, and all property or money alleged or supposed to have been feloniously obtained, or which shall be lost or abandoned, and which shall be taken into the custody of any member of the police force, or criminal court in the city of New York, or which shall come into the custody of any police justice or officer, shall be, by such member or justice, or by order of said court, given into the custody of and kept by the property clerk of the police. All such property and money shall be particularly registered by said property clerk in a book.

1881, ch. 442,
§691, 1873, ch.
335, §61, Comp.
253.

Stolen property, etc., to be given in charge to property clerk.

kept for that purpose, which shall contain the name of the owner, if ascertained, the place where found, the name of the person from whom taken, with the general circumstances, the date of its receipt, the name of the officer recovering the same, the names of all claimants thereto, and any final disposition of such property or money. The said commissioners may prescribe regulations in regard to the duties of the clerk so designated, and require and take security for the faithful performance of the duties imposed by this section.

Id. §62,
Comp. 254.
Return of prop-
erty, etc.

§ 289. Whenever property or money shall be taken from persons arrested and shall be alleged to have been feloniously obtained, or to be the proceeds of crime, and whenever so brought, with such claimant and the person arrested, before some magistrate for adjudication, and the magistrate shall be then and there satisfied from evidence that the person arrested is innocent of the offense alleged, and that the property rightfully belongs to him, then said magistrate may thereupon, in writing, order such property or money to be returned, and the property clerk, if he have it, to deliver such property or money to the accused person himself, and not to any attorney, agent, or clerk of said accused person.

Id. §63.
Claim to owner-
ship.

§ 290. If any claim to the ownership of such property or money shall be made on oath before the magistrate, by or in behalf of any other persons than the person arrested, and the said accused person shall be held for trial or examination, such property or money shall remain in the custody of the property clerk until the discharge or conviction of the person accused.

1873, ch. 325,
§64.
Lost property,
etc., to be
advertised in
City Record.

§ 291. All property or money taken on suspicion of having been feloniously obtained, or of being the proceeds of crime, and for which there is no other claimant than the person from whom such property was taken, and all lost property coming into the possession of any member of the said police force, and all property and money taken from pawnbrokers as the proceeds of crime, or by any such member from persons supposed to be insane, intoxicated, or otherwise incapable of taking care of themselves, shall be transmitted, as soon as practicable, to the property clerk, to be registered and advertised in the City Record for the benefit of all persons interested, and for the information of the public, as to the amount and disposition of the property so taken into custody by the police.

1881, ch. 442,
§689.
If not claimed
in six months,
to be delivered
to commission-
ers of charities
and correction.

§ 292. If property stolen or embezzled be not claimed by the owner, before the expiration of six months from the conviction of a person for stealing or embezzling it, the officer having it in his custody must, on payment of the necessary expenses incurred in its preservation, deliver it to the commissioners of charities and correction, to be applied for the benefit of the poor of the

city. All other property and money that shall remain in the custody of the property clerk for the period of six months without any lawful claimant thereto, after having been advertised in the City Record for the period of ten days, shall be sold at public auction in a suitable room to be designated for such purpose, and the proceeds of such sale shall be paid into the police life insurance fund.

1873, ch. 333,
§61, §65,
Comp. 253.
When detained
property shall
be sold.

§ 293. If any property or money placed in the custody of the property clerk shall be desired as evidence in any police or other criminal court, such property shall be delivered to any officer who shall present an order to that effect from such court. Such property, however, shall not be retained in said court, but shall be returned to such property clerk, to be disposed of according to the previous provisions of this chapter.

Id. §66.

§ 294. It shall be lawful for the police commissioners, whenever they shall be notified in writing by the Metropolitan Association of Amateur Oarsmen that a regatta is to be given under its auspices on the Hudson river, opposite Washington Heights, New York city, to keep the course used for any such regatta free and clear of all boats and vessels of every description during the actual time of the regatta, which shall not exceed six hours in any one day; provided,

1879, ch. 617, §1.
Comp. 1010.
Police commis-
sioners may
keep regatta
course clear.

1. That there shall not be more than five regattas in any one year.

Proviso.

2. That the course selected for such regattas shall be above Seventy-second street, and far enough up the river so as not to interfere with any line of ferry boats running on their regular course and trips.

3. That said regatta course shall not exceed in breadth more than one-fourth the width of the river from either shore, nor shall it exceed more than three miles in length.

§ 295. The course selected for any such regatta shall be plainly marked out by buoys or boats anchored; such buoys or boats shall have a flag placed upon them, so that they may be readily seen. No boat, vessel, or steamboat of any description shall be allowed on said regatta course during the actual time of any regatta, except by the consent of the officers in charge of such regatta. Any person rowing a row-boat or pilot of a sail-boat, sailing vessel, or steamboat, willfully going upon said regatta course, and thereby interfering with the regatta, shall be deemed guilty of a misdemeanor, and shall be liable to a penalty of not less than one hundred dollars, nor more than two hundred and fifty dollars, or imprisonment in the county jail for a time not to exceed three months, or to both, penalty and imprisonment. The fine or penalty to go to the police fund. It shall be the duty of the police commissioners to furnish a sufficient num-

Id. §§2, 3, 4, 5, 6.
Course, how
marked out.
Boats, etc.,
thereon.

Penalty for
willful inter-
ference with
regatta.

Disposition of
penalty.

Police. ber of police to keep said regatta course clear, and they shall have power to arrest any person or persons going upon such regatta course during the time of the regatta in violation of this or the preceding section. Nothing in this or the preceding section contained shall apply to, or be so construed as to interfere in any way with, sailing vessels actually engaged in commerce while proceeding on their course.

Proviso as to sailing vessels.

1880, ch. 390, §5. Board of health may make requisition on board of police to furnish officers to enforce law. Qualifications of force to be detailed.

§ 296. The board of police, upon the requisition of the board of health, shall detail to the service of the said board of health, for the purpose of the enforcement of the provisions of the acts relating to tenements and lodging houses, not exceeding thirty suitable officers and men of experience of at least five years' service in the police force, provided that the board of health shall pay monthly to the board of police a sum equal to the pay of all officers and men so detailed. These officers and men shall belong to the sanitary company of police, and shall report to the president of the board of health. The board of health may report back to the board of police, for punishment, any member of said company guilty of any breach of orders or discipline, or of neglecting his duty, and thereupon the board of police may detail another officer or man in his place, and the discipline of the said members of the sanitary company shall be in the jurisdiction of the board of police, but at any time the board of health may object to the efficiency of any member of said sanitary company, and thereupon another officer or man may be detailed in his place.

How disciplined.

Vacancies. The board of police shall have the power, and it shall be their duty, to fill all vacancies in the police force of the city caused by the detailing of said officers and men, upon the requisition of the board of health.

1880, ch. 588, §2. Applications to be registered as physician.

§ 297. Upon the application of any person residing within the precinct, it shall be the duty of the captain or other officer at the desk to register in a book kept open for that purpose the name and address of any person desiring or needing medical attendance, with the name or address of the person making such application, and without delay to select and notify of such application one from the list of physicians who have registered in said precinct as thereby pledging themselves to respond to any call for medical attendance, and who have been certified by the registrar of vital statistics of the board of health as being in good and regular standing. It shall be the duty of the captain or other officer at the desk, in the absence of any expressed preference by the applicant, to select and notify, from the list of physicians thus registered, the name of the physician residing nearest to the residence of the said patient in whose behalf application is made.

Physician to be called.

Id. §3. Unchanged.

§ 298. It shall be the duty of the captain, sergeant, or other officer at the desk, in such police precinct as before specified, upon

registry of any application as described in the preceding section, immediately to detail an officer whose duty it shall be to call upon such physician without delay, and to conduct him to the residence of the patient, also to verify by personal inspection or inquiry the name and address of such patient as registered by his superior officer. Every officer thus detailed as messenger shall be furnished with a blank certificate, upon which the name and address of the physician responding to the call, the name and address of the patient attended, and the date and hour of the visit shall be written by him after he has conducted the physician to the patient's residence and verified the genuineness of the application. Such certificate shall be signed by him and given to the physician, and shall specify upon its face that the physician therein named is entitled to the sum of three dollars from the public funds, upon presentation thereof to the proper officer, and indorsement thereof in writing with the name of the captain of the precinct. But it shall be the duty of the physician making such visit to present such certificate to the patient or his or her agent or attendant, and to request payment of the said sum specified; and in case of such payment being made, said physician shall surrender such certificate to the person or persons making it, and it shall cease to be a claim upon the public treasury. In default of the immediate payment of the said fee specified in the said certificate, by the patient or his or her attendant, it shall be the duty of the captain of the police precinct in which the visit was made to indorse it with his name; and thus indorsed it shall be the duty of the cashier of the board of health to pay at sight the fee aforesaid, and to enter the payment in a book provided for that purpose and take up the certificate. And all certificates thus redeemed shall be valid debts to the amount therein named, against the patients therein named, or their guardians, which the said board may order collected by due process of law, provided that no prosecution shall be instituted in cases where it is satisfactorily shown that the patient is without sufficient means for the payment thereof.

Officer to call for physician, etc.

Blank to be filled by officer.

Certificate to be given to physician.

Payment to be requested of patient.

In default of payment cashier of board of health to pay.

1880, ch. 568, §2.

§ 299. It shall be the duty of every physician thus called to the medical assistance of any person within the police precinct in which he is registered to transmit to the registrar of the board of health, within twenty-four hours after the call shall have been answered, a full and accurate statistical exhibit of the case, specifying therein the age and sex and the employment, profession or business of the patient, the nature of the disease, the hour of the attack, when practicable, the date, and the police precinct and ward in which the case occurred; the same shall be signed with the full name and address of the physician ren-

Id. §4. Statistical exhibit of case to be transmitted to board of health.

Blanks to be provided.

dering it, but the name and address of the patient shall always be omitted. And it shall be the duty of the board of health to provide all physicians thus registered for night medical service with appropriate blanks for the said purpose upon their application therefor.

Id. §5.
Physician nearest to be called, etc.

When physician's name to be erased from list.

§ 300. Any policeman who shall be detailed as messenger according to the provisions hereinbefore specified shall, in the absence of preference expressed in the application, call the physician nearest and most convenient to the patient's residence, or, in the absence or refusal from any cause of the latter, the physician next nearest, and so on. And there shall be no delay or waiting for such physician to return; and any member of the force neglecting to comply with this provision shall be subject to trial and fine, or dismissal from the service by the board of police in the same manner as for other offenses cognizable by the said body. And any physician thus registering who shall twice refuse or neglect, without reasonable excuse, to answer a call made according to the provisions of the three preceding sections, shall be subject to have his name erased from the list, upon proper evidence thereof submitted to an executive officer who shall be appointed by the registrar of vital statistics of the board of health, and shall be under his immediate supervision.

Id. §1.
Bulletin to be posted, if captains deem necessary, in hotel and district telegraph offices.

Id. §6.

§ 301. The captains of the several police precincts shall cause the names and addresses of such physicians as have been duly certified by the registrar of vital statistics to be plainly and legibly written or printed on a bulletin provided for that purpose, which bulletin shall be placed at a convenient point near the captain's desk, and kept open to the inspection of all persons within the precinct desiring to see the same. They may, if in their judgment it shall be necessary to the public convenience, cause the bulletins of physicians herein specified to be posted in the hotels and district telegraph offices within their respective precincts, but any applicant applying at such hotels or telegraph offices, or desiring the services of any messenger other than a member of the police force detailed for the purpose, shall employ such messenger at his own expense, and shall be liable for any expenses incurred in communicating with the police precinct.

Id. §7.
Hours of service.

§ 302. The period during which the aforesaid physicians shall be held to be subject to call shall be between the hours of ten in the evening and seven in the morning, from October first to March thirty-first, inclusive, and between the hours of eleven in the evening and six in the morning, from April first to September thirtieth, inclusive.

1873, ch. 389, §1.
Comp. 275.

§ 303. The police commissioners are a board of trustees of the police pension fund hereinafter mentioned. They shall from

time to time choose one of their number to be chairman and appoint a secretary. The treasurer of the board of police commissioners shall be treasurer of the board of trustees. Such board of trustees shall have charge of and administer said funds, and from time to time invest the same, or any part thereof, as they shall deem most beneficial to said fund, and are empowered to make all necessary contracts and take all necessary and proper actions and proceedings in the premises, and to make payments from said fund of pensions granted in pursuance of this chapter, and also pensions now charged on said fund by or under existing laws, and said board of trustees shall be the legal successors of the trustee or trustees of the police life insurance fund. The said trustees shall, from time to time, establish such rules and regulations for the administration of the police pension fund as they may deem best. They shall report in detail to the board of aldermen annually, in the month of January, the condition of the police pension fund, and the items of their receipts and disbursements on account of the same. No payments whatever shall be allowed or made by said trustees as reward, gratuity, or compensation to any person for salary or services rendered to or for said board of trustees.

Trustees.
Treasurer.
Powers of trustees.

Rules.

Report.

No payments to be made for services.

§ 304. The police pension fund, and all moneys, securities, revenues, and incomes thereof, in whose hands soever the same may be, shall be paid over and delivered on demand to the trustees of said fund.

Id. §2.
Fund to be paid to trustees.

§ 305. The police pension fund shall consist of:

1. The capital, income, interest, dividends, cash deposits, securities, and credits formerly belonging to the police life insurance fund, with the addition thereto from time to time of,

Id. §3.
What fund to consist of.
Police life insurance fund.

2. All fines imposed by the board of police upon members of the police force ; and,

Fines.

3. All rewards, fees, gifts, testimonials, and emoluments presented, paid, or given to any member of the police force for account of police services, except such as have been or shall be allowed by the board of police to be retained by said member ; and,

Rewards, etc.

4. All lost or stolen money remaining in the hands of the property clerk for the space of one year, and for which there shall be no lawful claimant, and moneys arising from the sale by the said property clerk of unclaimed property ; and,

Lost or stolen property.

5. A sum of money equal to three dollars per month for each member of the police force, paid and to be paid monthly by the treasurer of the board of police commissioners to the treasurer of the board of trustees of the police pension fund from moneys deducted from the pay of members of said force on account of lost time.

Deduction from pay of police.

1879, ch. 381 §4.
Comp. 276.
Trustees may
grant pension.

§ 306. The board of trustees of the police pension fund have power to grant pensions as hereinafter provided, to any person who was a member of the police force of said city on June fourth, eighteen hundred and seventy-eight, or to any person who has since or may hereafter become a member of the police force, to be paid from the police pension fund by the board of trustees thereof, as follows :

To widow.

1. To the widow of any person who was a member of the police force on June fourth, eighteen hundred and seventy-eight, or has since become such member, or who may hereafter become a member of the police force, who shall have been killed while in the actual performance of police duty, or shall have died from the effects of any injury received whilst in the actual discharge of such duty, or who has died or shall hereafter die after ten years of service in the police department of the city, provided such death shall not have been caused by any misconduct on his part, a sum of three hundred dollars per annum.

Children.

2. To any child or children under eighteen years of age of such member of the police force killed or dying as aforesaid, but leaving no widow, or if a widow, then after her death to such child or children being yet under eighteen years of age, a sum not exceeding three hundred dollars per annum.

Disabled
policemen.

3. To any such member of the police force who, whilst in the actual performance of police duty, and by reason of the performance of such duty, and without fault or misconduct on his part, shall have become permanently disabled, physically or mentally, so as to be unfitted to perform full police duty, a sum not to exceed one-half nor less than one-fourth of his rate of compensation per annum.

Superannuated
policemen.

4. To any such member of the police force of said police department who shall, after ten years membership, become superannuated by age, or rendered incapable of performing full police duty by reason of disability or disease contracted without misconduct on his part, a sum of three hundred dollars per annum.

Id. §7,
as amended
1879, ch. 527, §1,
Comp. 277.

5. To any such member of the police force who shall, after fifteen years of membership, become superannuated by age, or rendered incapable of performing full police duty by reason of disability or disease contracted without misconduct on his part, a sum of four hundred dollars per annum. In determining the term of service of any member of the police force under the provisions of this section, service in the late municipal and metropolitan police department, and subsequently in the police department of the city of New York, shall be counted and held to be police service in the police department of the city of New York.

Term of serv-
ice, how deter-
mined.

1879, ch. 381, §5.
Comp. 277.
Retired police-
men.

§ 307. Any such member of the police force who has or shall have performed police duty for a period of twenty years or upwards, upon his own application, or upon the certificate of the board of surgeons of the department of police, certifying that such policeman is permanently disabled so as to be unfit for police duty, may, in the discretion of the board of police, by resolution unanimously adopted by a full board, be retired from service and placed upon the police pension roll, and thereupon shall be awarded, granted, and paid from said police pension fund, by the trustees thereof, an annual sum during his lifetime not exceeding one-half nor less than one-fourth the full pay of a member of said police force of the rank of the member so retired; provided, however, that no pension granted under the provisions of this or the last preceding section shall exceed the sum of one thousand dollars per annum. Pensions granted under this section shall be for the natural life of the officer, and shall not be revoked, repealed, or diminished. In case any officer shall have voluntarily left the police department and entered into the United States service and served during the war of the rebellion and received an honorable discharge, and afterwards shall have been reinstated in the police department, the time of his service in the army shall be considered as a portion of his service in the police department.

Officers who
left the force to
volunteer in the
army.

Id. §6.
When pensions
to terminate.

§ 308. Pensions to widows shall terminate when the widow shall remarry, and pensions to children shall terminate whenever the children shall respectively arrive at the age of eighteen years. The board of police may, in its discretion, order any pensions granted, or any part thereof to cease, except in the case of members of the police force retired after twenty years' service, as provided in the last preceding section, but in all such cases the said board of police shall file with the trustees of the police pension fund a written statement of the causes which determined them in ordering any pension to so cease, and nothing herein or in any other act contained shall render the granting or payment of such pension obligatory on the board of police or upon the trustees of the police pension fund, or chargeable as a matter of right upon said police pension fund, except as provided in the last preceding section.

Id. §8.
Pensions to
police force to
be granted on
certificate of
surgeons of
department.

§ 309. No member of the police force shall be awarded, granted or paid a pension on account of physical or mental disability or disease, unless upon the certificate of the board of surgeons of the department of police, which shall set forth the cause, nature, and extent of the disability, disease, or injury of each member of the police force who may be placed upon the pension roll, and said certificate shall distinctly state whether or not such disability, disease, or injury was incurred or sustained by said

member of the police force in the performance of police duty; and such certificate shall in each case be filed with and entered upon the minutes of the board of police.

1867, ch. 888, §1,
Comp. 273.
Report of and
inspection of
steam boilers.

§ 310. Every owner of a steam boiler or boilers in use in the city of New York shall annually, and at such convenient times and in such manner and such form as may by rules and regulations to be made therefor by the board of police, be provided, report to the said board the location of such steam boiler or boilers, and thereupon, and as soon thereafter as practicable, the sanitary company, or such member or members thereof as may be competent for the duty herein described, and may be detailed for such duty by the board of police, shall proceed to inspect such steam boiler or boilers, and all apparatus and appliances connected therewith; but no person shall be detailed for such duty except he be a practical engineer, and the strength and security of each boiler shall be tested by hydrostatic pressure; and every boiler or boilers so tested shall have, under the control of said sanitary company, such attachments, apparatus and appliances as may be necessary for the limitation of pressure, locked and secured in like manner as may be from time to time adopted by the United States inspectors of steam boilers, or the secretary of the treasury, according to act of congress, passed July twenty-fifth, eighteen hundred and sixty-six; and they shall limit the pressure of steam to be applied to or upon such boiler, certifying each inspection and such limit of pressure to the owner of the boiler inspected, and also to the engineer in charge of the same; and no greater amount of steam or pressure than that certified in the case of any boiler shall be applied thereto. In limiting the amount of pressure, wherever the boiler under test will bear the same, the limit desired by the owner of the boiler shall be the one certified. But all steam users, manufacturers or corporations possessing the guaranteed certificates, unrevoked and in full life, of any fire insurance company now incorporated or hereafter incorporated, or of any company organized or hereafter organized, for the purpose of making guaranteed steam boiler inspections, and which shall have complied with the insurance laws of the State, having duly filed a statement with the superintendent of insurance or other authorized officer, of its conditions, and duly paid license fees and taxes, shall be exempt from such inspections.

1874, ch. 614, §1,
Comp. 274.
Exempt'ion
from further
inspection and
penalties.

Id. §2
Companies to
make monthly
returns to
inspectors.

§ 311. Any company referred to in the last preceding section which has complied therewith shall, at least once in each month, make and file returns, under oath, with the board of police, of all inspections made by them of steam boilers and of all certificates issued by them, and those at the time of making said return either in full force, unrevoked or canceled. Each and every

company so authorized and making insurances and failing to make such returns as aforesaid, shall pay the penal sum of fifty dollars for each and every failure or neglect to make and file said returns, the same to be recovered by suit to be brought by the board of police.

Penalty for neglect.

§ 312. The board of police shall preserve in proper form a correct record of all inspections of steam boilers made under its direction, and of the amount of steam or pressure allowed in each case, and in cases where any steam boiler or the apparatus or appliances connected therewith shall be deemed by the board, after inspection, to be insecure or dangerous, the board shall prescribe such changes and alterations as may render such boilers, apparatus and appliances secure and devoid of danger. And in the mean time, and until such changes and alterations are made, and such appliances attached, such boiler, apparatus and appliances may be taken under the control of the board of police, and all persons prevented from using the same, and in cases deemed necessary, the appliances, apparatus or attachments for the limitation of pressure may be taken under the control of the said board of police. And no owner or agent of any steam boiler shall employ any person as engineer without their having a certificate as to qualification from practical engineers, to be countersigned by the commissioners of police.

1862, ch. 168, §2, Comp. 272.
A record to be kept by police board.

§ 313. Any person applying, or causing to be applied, to any steam boiler a higher pressure of steam than that limited for the same, in accordance with the provisions of this chapter, and any person violating the provisions of the last preceding section shall be guilty of a misdemeanor. In case any owner of any steam boiler in the said city shall fail or omit to have the same reported for inspection as provided by law, such boiler may be taken under the control of the board of police, and all persons prevented from using the same until it can be satisfactorily tested as hereinbefore provided for, and the owner shall in such case be charged with the expense of so testing it.

1862, ch. 168, §3, Comp. 273.
Penalty for violation of this act.

§ 314. The board of police is hereby authorized, in addition to the police force now authorized by law, to appoint a number of persons, not exceeding two hundred, who may be designated by any company which may be operating a system of signaling by telegraph to a central office for police assistance, to act as special patrolmen in connection with such telegraphic system. And the persons so appointed shall, in and about such service, have all the powers possessed by the members of the regular force, except as may be limited by and subject to the supervision and control of the board of police. No person shall be appointed as such special patrolman who does not possess the qualifications which may be required by the board of police for

1880, ch. 20, §§1, 2, 3.
Policemen may be appointed for district telegraph companies.
Powers of.
Qualifications of.
Revocation of appointment.
Pay and expenses to be borne by company.

said special service; and the persons so appointed shall be subject, in case of emergency, to do duty as a part of the regular police force. The board of police shall have power to revoke any such appointment or appointments at any time, and every person so appointed shall wear a badge and uniform, to be furnished by such company and approved by the board of police. Such uniform shall be designated at the time of the first appointment under this section, and shall be the permanent uniform to be worn by said special police. The pay of such special patrolmen and all expenses connected with their service shall be wholly paid by such company or companies, and no expense or liability shall at any time be incurred or paid by the board of police for, or by reason of, the services of the persons so as aforesaid appointed.

CHAPTER IX.

OF THE DEPARTMENT OF PUBLIC WORKS.

Title 1.—General Powers and Duties of the Department.

1873, ch. 335.
§ 70, Comp. 281.
Deputy.
59 How. 333.

Powers of.

§ 315. The commissioner of public works may appoint a deputy commissioner of public works, who shall, in addition to his other powers, possess every power and perform all and every duty belonging to the office of said commissioner, whenever so empowered by said commissioner by written authority, designating therein a period of time not extending beyond the period of three months, nor beyond the term of office of the said commissioner of public works, during which said power and duty may be exercised; and such designation and authority shall be duly filed in and remain on record in the department of public works. The said deputy commissioner of public works shall possess the like authority in the case of the absence or disability of the commissioner of public works.

1873, ch. 335.
§ 71, Comp. 282.
Department to
have control of
Croton water.

§ 316. The department of public works shall have cognizance and control :

Streets, etc.
5 Rob. 192.

15 Abb. N. S.
115.
1880, ch. 373.

1. Of all structures and property connected with the supply and distribution of Croton water.
2. Of the collection of the revenues arising from the sale or use of the Croton water.
3. Of opening, altering, regulating, grading, flagging, curbing, guttering, and lighting streets, roads, places, and avenues.
4. Of repairing and construction of public roads.
5. Of the care of public buildings, including the buildings known as the county court-house buildings.
6. Of the filling of sunken lots.
7. Of public sewers and drainage.
8. Of street vaults and openings in sidewalks.

9. Of paving, repairing, and repaving streets, and keeping the same clear of obstructions, and of the relaying of pavement removed for any cause.

10. Of digging and constructing wells.

11. Of the care, management, and maintenance of the public baths.

12. Of the location, erection, establishment, and maintenance of public urinals.

§ 317. There shall be eight bureaus in the department of public works :

1. A bureau for laying water pipes, and the construction and repair of sewers, wells, and hydrants, paving and repairing streets; the chief officer of which shall be called "water purveyor."

1862, ch. 361,
Comp. 342.
1868, ch. 879,
Comp. 347.
1874, ch. 505,
Comp. 348.
1876, ch. 169,
Comp. 349.
1879, ch. 508,
Comp. 350.
1887, ch. 625,
Comp. 346.

2. A bureau for the collection of revenue derived from the sale and use of water; the chief officer of which shall be called "water register."

Water register.

3. A bureau having care of all structures and property connected with the supply and distribution of Croton water; the chief officer of which shall be called "chief engineer of the Croton aqueduct," with power to appoint and remove at pleasure, and detail a staff of assistant engineers. He and they must be civil engineers of at least ten years' experience.

Chief engineer
of Croton
aqueduct.

4. A bureau for grading, flagging, curbing, and guttering streets; the chief officer of which shall be called "superintendent of street improvements."

Superintendent
of street
improvements.

5. A bureau of lamps and gas; the chief officer of which shall be called "superintendent of lamps and gas."

Superintendent
of lamps and
gas.

6. A bureau of streets and roads; the chief officer of which shall be called "superintendent of streets."

7. A bureau of repairs and supplies, which shall have cognizance of all supplies and repairs to public buildings, works, lands, and places, and all other necessary repairs and supplies not provided for in other departments; the chief officer of which shall be called "superintendent of repairs and supplies," and shall be a practical builder.

Superintendent
of repairs and
supplies.

8. A bureau for the removal of incumbrances on the streets or sidewalks or public ground not inclosed in any park; the chief officer of which shall be called the "superintendent of incumbrances," to whom all complaints shall be made, and by whom such incumbrances shall be removed.

Superintendent
of incum-
brances.

§ 318. The street or roadway through Washington park or square, running from Fifth avenue on the north to South Fifth avenue on the southeast, shall be continued in use as one of the public streets of said city under the charge of the department of public works.

1878, ch. 390, §2.
Comp. 985.
Street.

1873, ch. 393, §73,
as amended
1873, ch. 757, §9,
Comp. 283.
To possess cer-
tain powers of
department of
public parks.
21 Hun, 533.

§ 319. The department of public works shall have and possess all the powers and functions at any time possessed by the department of public parks or the department of public works in relation to the construction of the boulevard (road or public drive), streets, avenues and roads above Fifty-ninth street, except in the Twenty-third and Twenty-fourth wards, and so far as the same are not embraced within the limits of or immediately adjacent to any park or public place, except as in this act otherwise provided; and all provisions of law conferring powers and devolving duties upon the department of public parks in relation thereto are transferred to and conferred upon the said department of public works. Said department shall also possess all the powers and perform all the duties formerly possessed by or devolved upon the Croton aqueduct board, except as in this act otherwise provided.

1871, ch. 290, §11,
Comp. 648.
1872, ch. 872, §7,
Comp. 303.
Commissioner
of public works
to acquire title
to streets and
squares north
of Fifty-ninth
street.
Powers thereof.
48 How. 285.

§ 320. The commissioner of public works shall have and possess exclusive power to acquire title in the name and on behalf of the mayor, aldermen and commonalty of the city of New York, in and to all public streets, avenues, roads, public squares and places, laid out or that may be laid out, in all that part of the city of New York lying northerly of Fifty-ninth street in said city, south of One Hundred and Fifty-fifth street and not in the Twenty-third or Twenty-fourth wards, and in and about all proceedings therefor now pending or hereafter to be commenced, and all proceedings subsequent thereto, the said commissioner shall have and possess all the powers and perform all the duties by law conferred on and authorized to be performed by said mayor, aldermen and commonalty of the city of New York.

1875, ch. 476, §1,
Comp. 351.
Repavement of
streets and
avenues.

§ 321. Whenever the commissioner of public works shall certify and report to the board of aldermen that the safety, health, or convenience of the public requires the repavement of any streets, avenues, or public places in said city, said board of aldermen shall have the power to direct, by ordinance or resolution, the repavement of said streets, avenues, or public places in the manner specified and of the materials approved of and recommended by said commissioner of public works, which work shall be done by and under the direction of the department of public works according to law. In case any of the streets, avenues or public places in said city shall have been once paved, and the expense therefor assessed upon the owners of adjoining and benefited property, the cost of the repaving thereof shall be borne by a general assessment upon all the taxable property in said city, but the amount appropriated and raised for such purpose shall not exceed the sum of five hundred thousand dollars in any one single year.

Cost of repav-
ing.

§ 322. The department of public works shall have cognizance, control, and general direction in the relaying of all pavement removed for the purpose of constructing vaults or lateral drains, digging cellars, laying foundations of buildings or other structures, making sewer connections or repairing sewers, and in the laying down of gas and water pipes, or introducing the same into buildings, or for any other purpose, and no removal of pavement for such purpose shall be made until a permit is first had from the said department.

1862, ch. 361, §1.
Comp. 342.
Department of
public works
to control the
relaying of cer-
tain pavements

§ 323. Whenever any portion of the pavement in any street or avenue in said city shall have been removed for any of the purposes mentioned in the preceding section, and such pavement shall not be relaid in a manner satisfactory to the commissioner of public works, he may cause a notice in writing to be served upon the person or corporation by whom the same was removed, or, if such removal was for the purpose of making connection between any house or lot, and any sewer or pipes in the street, or for constructing vaults, or otherwise improving any house or lot, upon the owner or occupant of such house or lot, requiring such person or corporation, or the owner or occupant of such house or lot, to have such pavement properly relaid within five days after service of such notice. Such notice may be served upon the owner or occupant of a house or lot by leaving the same with any person of adult age upon said premises. In case such pavement or portion thereof shall not be relaid to the satisfaction of said commissioner within the time specified in such notice, it shall be lawful, and authority is hereby given to said commissioner to have such pavement, or the portion thereof which shall have been so unsatisfactorily laid, put in proper order and repair, in such manner as the said commissioner may deem best, on account of the person or corporation by whom such pavement was removed, or of the owner of the premises for whose benefit such removal was made. Upon the cost of such work being certified to the comptroller of the city of New York by said commissioner, with a description of the lot or premises to improve which such removal was made, said comptroller shall pay the same, and the amount so paid shall become a lien and charge upon the premises so described, and on being certified by the comptroller to the collector of assessments and clerk of arrears, may be collected in the same manner that arrears of Croton water rents are collected under the direction of the collector of assessments and clerk of arrears. But if such removal was made by any person or corporation, and not for a connection between any house and sewer, or pipes, or to otherwise benefit any house or lot, upon the said commissioner certifying in writing such facts to the said comptroller

Id. §2.
Proceedings re-
lating thereto.
Notice to be
served.

Repair of pave-
ment.

with the cost of repair, and the name of the person or corporation by whom or by whose direction the pavement so repaired was removed, said comptroller shall pay such cost, and shall transmit a copy of the said certificate to the counsel to the corporation, who shall proceed to collect the same by suit against the person or corporation by whom the pavement was removed, and such person or corporation are hereby made liable to pay the same. Upon the trial of any such suit the said certificate of the said commissioner shall be conclusive evidence of the cost of such repair.

1873, ch. 335, §70,
Comp. 83, 281.
Unchanged.
Obstructions
on sidewalks,
etc.

§ 324. It shall be the duty of the commissioner to remove all obstructions now existing, or which may hereafter be placed upon any street or sidewalk, or public ground not inclosed in any public park.

1873, ch. 335, §70.
Comp. 83, 281.

§ 325. Whenever the words "street commissioner" shall occur in any existing law, ordinance, resolution, contract, or document, it shall be deemed to mean the commissioner of public works, and whenever in any law, or in any ordinance of the corporation, the words "street department" shall occur, it shall be deemed and construed to mean the department of public works and the commissioner thereof.

1849, ch. 383, §1,
Comp. 291.

§ 326. The department of public works shall have charge of the construction, repairs, and cleansing of all the sewers and underground drains, subject to the general plan which has been or may be adopted for the sewerage and drainage of said city, except those in the Twenty-third and Twenty-fourth wards.

1865, ch. 381.
§§1, 2, 3.
Comp. 343.
Sewerage dis-
tricts; maps of
location, etc., of
sewers.
3 Hun. 65; 62 N.
Y. 618; 53 id. 647;
46 id. 178; 63 id.
535; 47 id. 556;
52 How. 120.
18 Hun. 582.

§ 327. The commissioner of public works shall have power to devise and frame, so far as the same has not already been done, a plan of sewerage and drainage of the whole of said city, except in the Twenty-third and Twenty-fourth wards, for the purpose of thoroughly draining and carrying off water and other matter proper to be carried off by sewers. The said commissioner shall, so far as the same has not already been done, lay out the said city into as many sewerage districts as he may deem necessary for the aforesaid purpose, and shall also determine and show on suitable maps or plans the location, course, size, and grade of each sewer and drain proposed for each of said districts, and the proposed alterations and improvements in existing sewers, and shall also determine and show on said maps or plans the contemplated depths of said sewers and drains below the present surface and also below the established grades of the streets and avenues in each of said districts, and such other particulars as may be necessary for the purpose of exhibiting a complete plan of the proposed sewerage therein. The said commissioner shall appoint and employ such engineers, surveyors, inspectors, and other persons, and take and acquire, in accord-

Commissioners
to employ engi-
neers, acquire
lands, etc.

ance with existing laws, such lands as may be necessary for the prosecution of the work authorized by this section.

§ 328. Upon the completion of the map or plan for the drainage of any sewerage district, such map or plan shall be the permanent plan for the sewerage of such district, subject, however, to such subsequent modifications as may become necessary in consequence of alterations made in the grade of any street or avenue or part thereof in said district, or otherwise. Copies of such complete plans shall be made and filed by said commissioner in the offices of the board of alderman and comptroller. The construction of the work under said plans shall have precedence over and shall not be interfered with by any work connected with other street improvements in said district.

Id. §4, Comp.
344.
Maps to be permanent plans.

§ 329. The said commissioner, upon the completion of the plan of sewerage of any district, and the filing of copies thereof as required by the last preceding section, or as soon thereafter as may be convenient, shall cause printed specifications to be made in accordance with said plan of the work proposed to be done in said district, and shall thereupon invite proposals in the manner now required by law, and shall contract for the whole or any part of the work in said district. Upon the completion of the whole of the work embraced in any contract made in pursuance of this title, the said commissioner shall file in the office of the board of assessors in said city, a certified statement of such completion, and of the nature and extent of the work done, and the prices upon which the contract was awarded, together with a written description and map of the property benefited by such work, in the manner now required by law in the matter of street improvements in said city. The expenses incurred by said commissioner in pursuance of this title, including the cost of land, shall be assessed upon the property benefited by the improvement made; and such assessment shall be laid and confirmed and collected in accordance with the laws relative to assessments now in force in said city.

Id. §§5, 6.
Printed specifications of, and contracts for work.

Certificate of completion and nature of work.

§ 330. The said commissioner is authorized to insert in each contract made by him under this title, a provision that payments by monthly installments of seventy per cent. of the amount of work done will be made during the progress of the work, the remainder of the moneys to be retained until the confirmation of the assessment, and then paid in accordance with the terms or conditions of said contract. It shall be the duty of the comptroller, upon the requisition of the said commissioner, to pay all the expenses mentioned in the last preceding section, from the proceeds of assessment bonds to be issued in accordance with law.

1865, ch. 881, §7.
Comp. 344.
Certain percentage of work done to be paid for during progress of work.

Id. §8.
All sewers to be
in accordance
with general
plan of com-
missioner.

§ 331. It shall not be lawful hereafter to construct any sewer or drain in the city, unless such sewer or drain shall be in accordance with the general plan devised by said commissioner for the sewerage of the particular district in which such sewer or drain is proposed to be constructed.

Id. §9,
as amended
1866, ch. 551, §1.
Duty of com-
missioner of
public works.
Of Comptroller.

§ 332. In order to provide for the more effectual and economical construction of said sewers, the said commissioner may contract, in pursuance of law, for such materials used in the construction of sewers, and in such quantities as he may deem proper; and it shall be lawful for the comptroller to pay, on the requisition of said commissioner, from the proceeds of assessment bonds authorized to be issued, for such materials, and the expenses for engineers, surveyors, inspectors, or other persons employed by authority of said commissioner, in the construction of sewers.

Id. §11,
as amended
1866, ch. 551, §1,
Comp. 345.
Certificate to
board of assess-
ors.

§ 333. It shall be the duty of the commissioner of public works, upon the completion of any sewer constructed by virtue of the preceding sections, to certify to the board of assessors the quantity of materials used and the price thereof, and the charges for engineers, surveyors, inspectors or other persons, which have been paid by virtue of the last preceding section, for each sewer constructed by such authority, in order that the expenses for said materials and labor may be properly apportioned, together with such other expenses as may lawfully be incurred in said construction on the property benefited by the said improvement.

1880, ch. 565, §1.
Commissioner
to complete
grading, etc.

§ 334. The commissioner of public works is hereby authorized and directed to complete the regulating, grading, curbing and guttering, construction of roadways, flagging the sidewalks, the planting of shade trees, construction of sewers, and of the necessary retaining walls to support the roadways and sidewalks of the streets and avenues bounding Morningside park, according to such plans as the said commissioner may deem for the best interests of said city; all such work and the materials necessary therefor to be done and procured by one or more contracts made at public letting in the manner provided by law, except that the said commissioner is hereby authorized to appoint such engineers, or such other persons as he shall deem proper, to make the necessary surveys, estimates, plans and specifications, and supervise the construction of the work herein mentioned to be done by said commissioner, and the expense thereby incurred shall be included in the assessment for the work.

1880, ch. 565, §2.
Duty of com-
missioner to
transmit to

§ 335. It shall be the duty of the said commissioner to transmit to the board of assessors, upon the completion of said works, or any portion thereof, as the said commissioner may

deem advisable, his certificate of the amounts, heretofore expended upon said works, together with the expenditures hereafter incurred upon the same by him under the provisions of the preceding section.

board of assessors amount expended, etc.

§ 336. The said commissioner is hereby authorized and directed to change and adjust the grades of the streets and avenues bounding said park in such manner as he may deem for the best interests of the public; provided that such altered grades shall, at the intersection of the centre line of any abutting street or avenue, coincide with the present established grade of such abutting street or avenue; and it shall be the duty of the said commissioner to file in the department of public parks, in the department of public works, and in the office of the register of the city and county of New York, a map or maps, duly certified by him, showing the grades of said streets and avenues as so changed and adjusted, and upon the filing of said map or maps as herein provided, the grades shown therein shall be deemed established as shown on said map or maps.

Id. §3.
Change of grades of streets, etc.

§ 337. The department of public works shall have control of the care and maintenance of said streets and avenues, and the improvements upon the same, after completion.

Id. §4.
Control of streets, etc.

§ 338. Permission and authority is hereby given to the commissioner of public works to place the slope or batter of the retaining walls within the limits of the said Morningside park, and the said commissioner and the contractors and their employees for doing said work may enter and occupy that part of Morningside park fronting the avenues adjacent thereto, for such time as may be required for the construction of said retaining walls and slope or batter. Such modifications and adjustment of said retaining walls and slope or batter as may be required to conform to plans and specifications of the department of public parks for the approaches or means of ingress or egress to or out of said Morningside park, shall be made or done by the department of public parks, and the work which the commissioner of public works is authorized to do, and the work required to be done in and about said retaining walls, slope or batter, as herein described, to carry out the plans and specifications of the department of public parks, shall, as far as practicable, be prosecuted at the same time.

Id. §5.
May place slope or batter of walls within limits of park.

§ 339. The commissioner of public works shall, prior to the twenty-sixth day of June, eighteen hundred and eighty-three, lay out and establish a street of the width of not less than sixty feet running from Tenth avenue at or opposite One Hundred and Thirty-eighth street to Avenue Saint Nicholas, with such windings and turnings, courses and directions as in his judgment may best serve to promote the interest of the city and of the

1880, ch. 337, §1.
1881, ch. 537, §1.

Commissioner to lay out street
Route.

Alteration of map.

Map of new street.

Lands to be acquired.

owners of property affected thereby, in that section of the city bounded northerly by a continuation easterly from Tenth avenue to Avenue St. Nicholas of the northerly line of One Hundred and Forty-third street, westerly by Tenth avenue, easterly by Avenue St. Nicholas, and southerly by the northerly and northeasterly line of the lands of the Female Academy of Sacred Heart and the southerly line of One Hundred and Thirty-third street extended and continued westerly from the Avenue Saint Nicholas until it meets the said northeasterly lines of the said lands of the said academy. And the said commissioner of public works is authorized to make such changes and alterations in the map or plan of the said portion of the said city by abandoning, closing, extending, widening or narrowing the existing streets, avenues or roads to such extent as may be necessary in order to properly conform to the new street authorized to be laid out by the provisions of this section. And he shall cause to be made a map of the said street which in addition to said street shall show such changes and alterations of streets, avenues or roads, or portions thereof, as may be required as aforesaid. The said map shall be signed by said commissioner and filed in the department of public works, and copies thereof certified by said commissioner shall be filed in the office of the secretary of state and of the register of the city and county of New York, and from the day of its filing it shall be conclusive upon the mayor, aldermen and commonalty of the city of New York, and any and all persons whomsoever. But nothing herein contained shall be construed to authorize the laying out, opening or construction of any street, avenue or road through any cemetery. The street shall be opened and the lands necessary therefor acquired upon the application of the commissioner of public works, who shall make such application immediately upon the filing of said map for and on behalf of the mayor, aldermen, and commonalty of the city of New York, in like manner as is now provided by law for opening other streets, avenues, or roads in said city, but nothing in said laws contained shall authorize the discontinuance of such proceedings. The streets, avenues, and roads, and the portions thereof designated on said map as closed and abandoned may be closed by order of the supreme court upon the application of the commissioner of public works for and on behalf of the mayor, aldermen, and commonalty of the city of New York, in like manner as is now provided by law for closing streets, avenues, and roads in said city, and it shall be lawful to unite in one application or proceeding the opening of the said street, and the closing of any and all streets, avenues, and roads designated upon said map as closed, or such parts thereof as it may be deemed best to close,

and which intersect or lie adjacent to the said new street or avenue proposed to be opened in said proceeding. When the said street so laid out shall be opened as aforesaid, the said commissioner shall have the power to fix the grades thereof, and to change the existing grades of intersecting or contiguous streets, avenues or roads, so far as in his judgment may be necessary to secure a conformity of grades of all such streets, avenues and roads, with the grade of the new street laid out as provided in this section, and the said commissioner of public works shall within three months after the opening of the said street cause a map showing the grades thereof, and of the intersecting and contiguous streets, avenues, and roads, so far as changed, to be made and filed in the department of public works, and copies thereof certified by said commissioner shall be filed in the office of the secretary of state, and the office of the register of the city and county of New York, and the said maps, when so filed, shall be in all respects final and conclusive upon the mayor, aldermen, and commonalty of the city of New York, and upon all persons whomsoever, and shall thereafter be changed only by ordinances of the mayor, aldermen and commonalty of the city of New York, upon the petition of the property owners as now provided by law for changes of grades in other portions of said city. When title to such lands for the new street to be laid out under the provisions of this section, necessary therefor, shall have been acquired, the commissioner of public works shall as soon as practicable proceed to open said new street, and render and make it fit for travel by regulating, grading, paving or macadamizing or otherwise improving it or in any way or by any other process or means which he may deem best for the convenience of the public, and in his discretion curb, gutter and flag the same and the sidewalks thereof, and at the earliest practicable time throw the same open for public use, and no ordinances of the common council, or other authority than such as is conferred by this section, shall be necessary to authorize him to proceed forthwith with such work; all such work, and the materials thereof, to be done and procured by one or more contracts made at public letting, in the manner provided by section sixty-four, except that the said commissioner is authorized to appoint such engineers or such other persons as he may deem proper to make the necessary surveys, estimates, plans and specification, and supervise the construction of the work herein mentioned to be done by said commissioner, and the expense thereby incurred shall be included in the assessment of the work. It shall be the duty of the said commissioner of public works to transmit to the board of assessors, upon the

Grades, &c

When title to lands has been acquired, street to be opened.

Certificate of expenditures to be transmitted by Comptroller to Assessors.

completion of said works, or any portion thereof, as the said commissioner may deem advisable, his certificate of the expenditures incurred upon the same by him under the provisions of this section, and the proceedings of laying and collecting assessments for work so certified shall be pursuant to the laws now or hereafter in force for laying and collecting assessments for local improvements in said city ; assessments which are authorized for the expense of any work or materials procured, or service rendered under this section, may be laid separately, from time to time, upon the receipt by the said board of assessors of such certificate of the said commissioner.

1879, ch. 518, §1,
Comp 1033,
Maps

§ 340. The maps or plans filed by the commissioner of public works pursuant to the provisions of section one of chapter five hundred and eighteen of the laws of eighteen hundred and seventy-nine, of that portion of the city of New York lying between and bounded by One Hundred and Forty-fifth street on the south, the Eighth avenue on the east, the northerly side of One Hundred and Fifty-fifth street on the north and the Hudson River on the west, shall continue to be the lawful maps of said portions of the city.

1879, ch. 518, §2,
Comp. 1034.
Opening of
streets, avenues
and roads.

§ 341. The streets, avenues, and roads shown upon said maps of said portion of the city, shall be opened upon the application of the commissioner of public works, in like manner as is now provided by law for opening other streets, avenues, and roads in said city ; but no street, avenue, or road for the first time laid

out under the provisions of the act in the last section referred to shall be opened without the consent in writing of the owners of three-fifths of all the lands fronting on said street, avenue, or road, and of three-fifths of all the lands lying between such street, avenue, or road, and the street, avenue, or road parallel thereto, and the next adjacent on either side; and in case there shall be no such parallel street, avenue, or road within a less distance than three hundred feet, then of the owners of three-fifths of the lands lying within three hundred feet on either side thereof, first had and obtained.

§ 342. Whenever any street, avenue, or road is so laid out and opened, the said commissioner shall have the power to fix the grades thereof, and to change the existing grades of intersecting streets, avenues, and roads. And the said commissioner shall, within three months after the opening of any such street, avenue, or road, cause a map thereof, showing the grades thereof, and of the intersecting streets, avenues, and roads, to be made and filed in the department of public works, and copies thereof, certified by the said commissioner, shall be filed in the offices of the secretary of state and of the register of the city and county of New York, which said maps, when so filed, shall be in all respects final and conclusive upon the mayor, aldermen, and commonalty of the city of New York, and upon all persons whomsoever.

Id. §3.
Grades.

Map showing
grades to be
made and filed.

§ 343. The commissioner of public works is authorized and empowered, in his discretion, on the application in writing of the head of the fire department, to grant to said department locations for apparatus houses of said department on any of the public property, streets, or slips under the control of the department of public works; provided the same are so located and constructed as, in the judgment of the commissioner of public works, will not disfigure nor mar the appearance of the same, nor interfere with the purposes of travel or public recreation; and if placed upon any avenue, street, or slip, shall not reduce the width of the same between the curbs, for the purposes of travel, at the place of such location, to be less than thirty feet on each side of such building.

1871, ch. 542, §13,
Comp. 401.

§ 344. Whatever work, if any, may be necessary to complete the county court-house buildings shall be proceeded with by the commissioner of public works, when authorized by the board of estimate and apportionment. No such work shall be authorized by said board until a special appropriation is made to provide for the cost of the same, and it shall not be lawful for the head of said department to exceed the amount so appropriated in completing the buildings.

1880, ch. 373, §2.
Head of department of public
works to proceed with work.

1880, ch. 121, §3.
Commissioner
to prepare land
in Ninth ward.

§ 345. After lands shall have been acquired in the Ninth ward for a public market place for farmers and market gardeners, as provided by law, the commissioner of public works shall prepare the same for occupancy, and shall have power to purchase and erect the necessary appurtenances and structures for the purposes aforesaid, under such restrictions as have been or shall be established by law for the control of the expenditures of the departments of the said city.

1868, ch. 879,
Comp. 347.
1874, ch. 505,
Comp. 348.
1876, ch. 160,
Comp. 349.
1879, ch. 508,
Comp. 350.
1881, ch. 447, §4.
Floating baths.

§ 346. The mayor, aldermen, and commonalty, by the department of public works, are authorized and directed to maintain nine free public floating baths, one of which shall be located in the East river, one in the Hudson river, one at Seventeenth street and East river, one in the Fifth ward, and the others at places designated by the commissioner of public works, which shall be and remain under the exclusive control and management of the said department of public works.

1867, ch. 625,
§§1, 2.
Comp. 346.
Location of
public urinals.
Maintenance
and cleanliness
of.

§ 347. The commissioner of public works is authorized and empowered to locate, erect, and establish public urinals within the boundaries of any street, avenue, public place, or thoroughfare in said city, as he may from time to time deem advisable, and connect the same by drains or suitable pipes with any adjacent sewer. After the erection and completion of said public urinals, it shall be the duty of the department of public works to provide for their maintenance and cleanliness; and every person defacing or damaging said constructions, or writing or posting notices, figures or devices thereon, shall, on conviction before any police justice of said city, be subject to a penalty of fifty dollars, or imprisonment for the term of three months in the penitentiary of said city and county in the discretion of said justice.

Regulate First
avenue.

§ 348. It shall be the duty of the commissioner of public works to proceed, in the manner provided by law, and complete the regulating, grading, curbing, guttering and flagging of First avenue from Ninety-second street to One Hundred and Ninth street.

1881, ch. 456, §1.
Pipes to
reservoir.

§ 349. The commissioner of public works is hereby authorized and directed to remove the pipes connecting with the reservoir on Fifth avenue, between Fortieth and Forty-second streets, and to lay another main in Fifth avenue between Fortieth and Forty-second streets, to connect the mains now leading in and out of the said reservoir. He is further directed to remove the structure and grade the ground now occupied by the said reservoir to the level of the adjacent streets in a suitable manner for the purpose of a park.

Title 2.—Duties and Powers of the Department as to Procuring and Distributing Water.

§ 350. The commissioner of public works shall from time to time establish scales of rents for the supplying of water, which rents shall be collected in the manner now provided by law, and which shall be apportioned to different classes of buildings in said city in reference to their dimensions, values, exposure to fires, ordinary uses for dwellings, stores, shops, private stables, and other common purposes, number of families or occupants or consumption of water, as near as may be practicable, and modify, alter, and amend and increase such scale from time to time, and extend it to other descriptions of buildings and establishments. Such rents shall be collected from the owners or occupants of all such buildings, respectively, which shall be situated upon lots adjoining any street or avenue in said city in which the distributing water pipes are or may be laid, and from which they can be supplied with water. Said rents shall become a charge and lien upon such houses and lots, respectively, as herein provided.

1871, ch. 574, §
Comp. 311.
Scale of water
rents.
5 Abb. N. C. 51.
1849, ch. 383, §18.
Comp. 292.

Scale of rents
to be estab-
lished for Cro-
ton water.

§ 351. The commissioner of public works is authorized, on behalf of the mayor, aldermen, and commonalty to contract from time to time with the city of Yonkers, or the board of water commissioners of the city of Yonkers, for a supply of wholesome water for the Twenty-fourth ward, from the water-works or water belonging to them or under their charge and control, for such time, in such quantities, and at such prices as may be agreed upon by them. The said commissioner of public works is authorized and directed to procure, purchase, and lay, provide and make ready for use, from time to time, so many mains and pipes and other means and appliances, and erect so many hydrants as may be necessary and sufficient to distribute and supply the water so procured under contract with the city of Yonkers, to and through the Twenty-fourth ward, or such part of it as may require or be in need of the same, and which cannot, or ought not in his judgment, be supplied from the Croton water-works, and to purchase, provide, do, and perform all things necessary or proper to enable the said Twenty-fourth ward, or said part, and the inhabitants thereof, to obtain and have an abundant supply of water at all times, and for such purpose, in case of necessity or convenience, to arrange and agree with the owner of lands in said ward for an irrevocable license or permission to enter upon, lay, repair, keep in order, protect, and maintain mains, pipes, conduits, and hydrants in, through and upon said lands. The commissioner of public works is authorized to fix, and from time to time to alter, special rates or

1879, ch. 480.
§§ 2, 3.
Comp. 339.
Powers and
duties of com-
missioner of
public works.
Water rates or
charges.

charges for water supplied to any house or building, or to any other erection or structure, in the Twenty-fourth ward, including washers and hydrants, and to make such arrangements and rules as may be proper to ascertain the quantity of water used therein or by means thereof, and such rates and charges shall be a lien until paid upon the lands upon which such house, building or other erection or structure may stand or be situated, and shall be collectable at the same time and in the same manner, including sales for unpaid taxes, as the ordinary tax imposed on the same lands.

1873, ch. 335, §73.
Comp. 84, 283.
Water meters.

§ 352. The commissioner of public works is authorized, in his discretion, to cause water meters, the pattern and price of which shall be approved by the mayor, comptroller, and chief engineer of the Croton aqueduct, to be placed in all stores, workshops, hotels, manufactories, public edifices, at wharves, ferry-houses, stables, and in all places in which water is furnished for business consumption by the department of public works, except private dwellings, so that all water so furnished therein or thereat may be measured and known by the said department, and for the purpose of ascertaining the ratable portion which consumers of water should pay for the water therein or thereat received and used. Thereafter, as shall be determined by the commissioner of public works, the said department shall make out all bills and charges for water furnished by them to each and every consumer as aforesaid, to whose consumption a meter as aforesaid is affixed, in ratable proportion to the water consumed, as ascertained by the meter on his or her premises or places occupied or used as aforesaid. All expenses of meters, their connections and setting, water rates and other lawful charges for the supply of water, shall be a lien upon the premises where such water is supplied as now provided by law. Nothing herein contained shall be construed so as to remit or prevent the due collection of arrearages or charges for water consumption heretofore incurred, nor interfere with the proper liens therefor, nor of charges, or rates, or liens hereafter to be incurred for water consumption in any dwelling-house, building, or place which may not contain one of the meters aforesaid. The moneys collected for expenses of meters, their connections and settings, shall be applied by the commissioner of public works to the payment of expenses incurred in procuring, connecting and setting said meters.

Expenses for
meters, etc., a
lien on prem-
ises.

1871, ch. 213, §5.
Comp. 311.
Money col-
lected for
meters, connec-
tions, etc.

1849, ch. 383.
§20. Comp. 233.

§ 353. The annual rents which are not paid to the department of public works before the first day of August in each year, shall be subject to an additional charge of five per cent., and those rates not paid before the first day of November in each year shall be subject to an additional charge of ten per cent.

§ 354. No patent hydrant, valve, or stop-cock shall be used by the department of public works unless the patentee or owner of said patent shall allow the use of the patent by said department without royalty.

Rents in arrears.
1879, ch. 381, §1.
Comp. 313.
Unchanged.

§ 355. The rules and restrictions for the use of the water printed on each permit shall be notice to the water-takers, and shall authorize the exaction and recovery by process of law of any penalties which the commissioner of public works may impose in addition to cutting off the use of the water for any violation of the rules, and this section shall be printed on such permits.

Use of patent hydrants, etc.
1849, ch. 388, §27, Comp. 293.
Rules printed on permits to be notice to water-takers.

§ 356. The commissioner of public works, when thereunto authorized by a resolution or ordinance passed by a three-fourths vote of all the members elected to the common council, to be approved by the mayor, is authorized to expend for materials to be used and labor and other services to be performed by contract, let at public letting, as now provided by law, in laying pipes to extend and enlarge the distribution of water through the city of New York, and in furnishing a sufficient supply thereof to the institutions in charge of the department of public charities and correction located on Blackwell's island, Ward's island, and Randall's island, and in laying mains necessary to deliver such water, at higher levels and in greater quantities, and erecting such fixtures as he may deem necessary, in each and every year a sum not exceeding two hundred and fifty thousand dollars in addition to the amounts heretofore authorized to be expended for said purposes.

1879, ch. 381, §1.
Comp. 312.
When and how distribution of water may be extended.

§ 357. The department of public works is charged with the preservation of the Croton lake and all waters from which a water supply is drawn by the city, with the preservation of the banks of the Croton river and other waters from injury or nuisances, with the execution of such measures as may be necessary to preserve and increase the quantity of water and keep it pure, with the management, preservation, and repairs of the dam, gates, aqueduct, high bridge, reservoirs, mains, pipes, pipe yard, and property of every description belonging to the water works, and shall have the construction of such new works, and the purchase and laying down of such mains and pipe as may be authorized in accordance with law. Said department shall be responsible for the supply of water and the good order and security of all the works from the Croton lake to the city, inclusive, for the exactness and durability of the structures which may be erected and of the daily work to be performed, and for the sufficiency of the supply in the pipe yard to meet every casualty, and for the fidelity, care, and attention of all persons employed by the department in watching the works and

1849, ch. 388, §1.
Comp. 291.
Department to have charge of Croton lake and river, etc.

Supply of water and security of the works.

in making constructions and repairs, and shall inspect thoroughly the interior of the aqueduct and make the necessary repairs at least twice in the year.

1836, ch. 468,
§§1, 2, Comp.
338.
Land, how to be
used.

Condition.

§ 358. The lands situate in the county of Westchester which were taken by the corporation of the city and county of New York, by virtue of the act entitled "an act to provide for supplying the city of New York with pure and wholesome water," passed May second, eighteen hundred and thirty-four, shall be held and appropriated by the said corporation only for the use and purpose of introducing water into the city, and for purposes necessarily incident thereto, and for no other uses or purposes whatever. In case said corporation should use any of said lands situate in the county of Westchester for purposes other than in this section permitted; or in case said land should not be required for the purpose of introducing water into the city, such lands so improperly used, or not so required, shall become revested in the individual from whom the said corporation obtained it, as fully and perfectly as though the said act had never been enacted, upon repaying to said corporation the amount originally paid for the same, after deducting from such amount the damages sustained by such individual by reason of any alteration or work which the said corporation may have made upon said land.

Fences.
Id. §§3, 4.

Passes.

§ 359. The corporation of the city of New York shall, at the expense of the said corporation, erect and sustain all fences which may be required to protect the works upon said last-mentioned lands from injury, and shall, whenever said aqueduct shall intersect the land in the said county of Westchester belonging to an individual or individuals, erect and sustain at the expense of the said corporation convenient passes across or under the aqueduct erected by virtue of said act for the farming and other purposes of the land thus intersected.

1877, ch. 245, §21.
Comp. 336.
Highways,
repair of.

§ 360. The city of New York is hereby required to repair and forever maintain the highways built or in process of construction by the said city around the new reservoir, on the middle branch of the Croton river, in the town of South East.

1866, ch. 502, §1,
Comp. 341.
Lands for reser-
voirs, etc., to be
taxed.

§ 361. The lands heretofore taken or to be taken for storage, reservoirs, or for other constructions necessary for the introduction and maintenance of a sufficient supply of water in the city, shall be assessed and taxed in the counties in which they are or may be located, in the manner prescribed by law, at the value of the lands, exclusive of the aqueduct, and the constructions and works necessary for its purposes; and the said aqueduct, with such aforesaid constructions or works, and the capital therein employed, and belonging to the corporation of the city of New York, shall be assessed and taxed only within the city

and county of New York, and in the same manner as personal property of the said corporation now is or may hereafter be assessed and taxed, provided that the assessed value of the said lands shall not exceed the assessed value of the lands in the immediate neighborhood thereof.

§ 362. It shall not be lawful for any person to throw or deposit, or cause to be thrown or deposited in the Croton lake, above the Croton dam, or in the Croton aqueduct, or either of the Croton reservoirs, any dead animal or nuisance, or other offensive matter, or anything whatever. Any person offending against the provisions of this section shall be deemed guilty of misdemeanor, and upon conviction thereof shall be punished by fine or imprisonment, or both, in the discretion of the court; such fine not to exceed the sum of one hundred dollars, and such imprisonment not to exceed the period of three months. If the offense is committed in the county of Westchester, such imprisonment to be in the jail of said county; if in the city and county of New York, such imprisonment to be in the penitentiary.

1843, ch. 137, §§ 1, 2.
Comp. 340.
Prohibition.

1849, ch. 383.
Penalty.

§ 363. If any person shall willfully do or cause to be done any act whereby any work, materials, or property whatever erected or used, or hereafter to be erected or used within the city or elsewhere, by the said mayor, aldermen, and commonalty, or by any person acting under their authority, for the purpose of procuring or keeping a supply of water, shall in any manner be injured, or shall erect or place any nuisance on the banks of the Croton river, or shall throw anything into the aqueduct, or into any reservoir or pipe, such person, on conviction thereof, shall be deemed guilty of a misdemeanor.

1849, ch. 383, § 17.
Comp. 292.
Penalty for
injuring the
works, etc.
See 1842, ch. 225.

§ 364. In all cases where the commissioner of public works shall have entered upon, taken, or used, or shall hereafter enter upon, take, or use, or shall deem it necessary to enter upon, take, or use the waters of any lake or any upland, or land under water, or water-rights or privileges, or any incorporeal hereditaments or any other property, for the purpose of maintaining, preserving, or increasing the supply of pure and wholesome water for the use of said city, the said commissioner is authorized, for and in behalf and in the name of the mayor, aldermen, and commonalty, in the manner hereinafter prescribed, to acquire all rights, titles, and interests in and to such real estate by whomsoever the same may be held, enjoyed, or claimed, and to pay for and extinguish all claims or damages on account of such rights, titles, or interests, or growing out of such taking or using.

1877, ch. 445, § 1.
Comp. 326.
Acquisition of
land for obtain-
ing water
supply.
See 1879, ch. 28.

§ 365. The said commissioner, his engineers, surveyors, and such other persons as may be necessary to enable him to perform his duties under this title are hereby authorized to enter

Id. § 2.
Entry upon
lands, etc.

Damages, settlement of.

upon any land or water for the purpose of making surveys or examinations, and to agree with the owners, occupants, or claimants of any real estate which may have been required or damaged, or which hereafter may be required or damaged in carrying into effect the provisions of this title, as to the amount of compensation to be paid to such owners, occupants, or claimants, and the time and manner of such payments. And in case any such real estate shall be owned, occupied, or enjoyed by the people of this State, or by any county, town, or school district within this State, such rights, titles, interests, or properties may be paid for upon agreement, respectively, with the commissioners of the land office, who shall act for the people of this State, with a chairman and a majority in numbers of the board of supervisors of any county who shall act for such county, and with the supervisor and commissioners of highway in any town who shall act for such town, and with the trustees of any school district that shall act for such district.

Id. §3, Comp. 327.
Proceedings in case parties cannot agree.

§ 366. In case the said commissioner of public works is unable to agree with the said owner or owners, occupant or occupants, claimant or claimants of any such real estate, or with any or either of such officers as to the sum or sums to be paid for the acquisition or extinguishment of any such real estate, or of any right, title, or interest thereto or therein, for carrying into effect the purposes of this title, the said commissioner of public works shall have the right to acquire such real estate, or to extinguish any such right, title, or interest thereto or therein, for the mayor, aldermen, and commonalty of the city of New York in the manner and by the special proceedings hereinafter provided.

Id. §4.
Petition for appointment of commissioners.

§ 367. For the purpose of acquiring any such real estate or of extinguishing any right, title, interest thereto or therein, the said commissioner of public works, for and in behalf of the said mayor, aldermen, and commonalty of the city of New York, may present a petition praying for the appointment of commissioners of appraisal to the supreme court, at any general or special term thereof, held in the district in which the real estate described in the petition may be situated. Such petition shall be signed and verified according to the practice of such court. It must contain a general description of the real estate which the said commissioner seeks to acquire, and of the rights, titles, and interests therein which he seeks to extinguish, and also a general statement of the names and places of residence of the parties, so far as the same can by reasonable diligence be ascertained, who own, occupy, or enjoy, or who claim to own, occupy, or enjoy, any such real estate, or any right, title, or interest therein, and if any of such persons are infants, their ages, as near as may be, must be stated; and if any of such per-

sons are idiots, or persons of unsound mind, or are unknown, that fact must be stated, together with such other allegations and statements of liens or incumbrances upon such rights, titles, and interests as the said commissioner may see fit to make. A copy of such petition, with a notice of the time and place the same will be presented to the supreme court, must be served on all persons whose interests are to be affected by the proceedings at least ten days prior to the presentation of the same to the said court.

1. If the person on whom such service is to be made resides in this State and is not an infant, idiot, or person of unsound mind, service of a copy of such petition and notice must be made on him, or his agent or attorney, authorized to contract for the sale or surrender of the real estate described in the petition, personally, or by leaving the same at the usual place of residence of the person on whom such service must be made as aforesaid with some person of suitable age. Notice, service of

2. If the person on whom such service is to be made resides out of the State, and has an agent residing in this State authorized to contract for the sale or surrender of the property described in the petition, such service may be made on such agent, or on such person, personally, out of the State, or it may be made by publishing the notice, stating briefly the object of the application and giving a description of the property to be taken or affected, in the State paper, and in a paper printed in the county in which the real estate taken or affected is situated, once in each week for one month next previous to the presentation of the petition; and if the residence of such persons residing out of this State, but in any of the United States, or any of the British colonies in North America, is known, or can, by reasonable diligence, be ascertained, the said commissioner must, in addition to such publication as aforesaid, deposit a copy of the petition and notice in the post-office, properly folded and directed to such person at the post-office nearest the place of residence at least two weeks before presenting such petition to the court, and pay the postage chargeable thereon in the United States. Non-residents.

3. If any person on whom such service is to be made is under the age of twenty-one years, and resides in this State, such service shall be made as aforesaid on his general guardian, or, if he has no such guardian, then on such infant, personally, if he is over the age of fourteen years, and if under that age, then on the person who has the care of such infant, or with whom such infant resides. Minors.

4. If the person on whom such service is to be made is an idiot, or of unsound mind, and resides in this State, such service may be made on the committee of his person or estate, or if he Idiots, etc.

has no such committee, then on the person who has the care or charge of such idiot or person of unsound mind.

Unknown
owners.

5. If the person on whom such service is to be made is unknown, or his residence is unknown and cannot, by reasonable diligence, be ascertained, then such service may be made under the direction of the court by publishing a notice, stating the time and place the petition will be presented, the object thereof, with a general description of the property to be affected by the proceedings, in the State paper, and in a paper printed in the county where the property is situated, once in each week for two weeks previous to the presentation of such petition.

6. In case any party to be affected by the proceedings is an infant, idiot, or person of unsound mind, and has no general guardian or committee, the court shall appoint a special guardian or committee to attend to the interests of such person in the proceedings; but if a general guardian or committee has been appointed for such person in this State, it shall be the duty of such general guardian or committee to attend to the interests of such infant, idiot, or person of unsound mind, and all notices required to be served in the progress of the proceedings may be served on such general or special guardian or committee.

Corporations,
municipalities,
etc.

7. In case the people of this State or any county of this State, or any town in this State, or any common school district within this State, or any corporation organized under the laws of this State, shall own, occupy, or enjoy any real estate which is to be acquired or affected in carrying into effect the purposes of this title, such notice and petition may be served in the manner hereinbefore prescribed, upon the following officers, respectively: upon the clerk to the commissioners of the land office, in behalf of the people of the State; upon the clerk of the board of supervisors of any county, in behalf of such county; and upon the supervisor of any town, and the commissioners of highways in any town, in behalf of such town; upon the trustees of any school district, in behalf of such district; and upon the acting chief executive officer of any corporation, in behalf of such corporation.

8. In all cases not herein otherwise provided for, service of orders, notices, and other papers in the special proceedings, authorized by this title, may be made as the supreme court shall direct.

1881, ch. 582, §1.
Real estate
may be
acquired.

9. Whenever there shall be one or more of the estates, enumerated in article one of title two of chapter one of the second part of the revised statutes, entitled "Of the creation and division of estates," in any real estate, as the term real estate is defined in section three hundred and seventy-nine, required by the city of New York for the purpose mentioned in

section three hundred and sixty-four, such estate and real estate may be acquired by said city by means of the special proceedings authorized by this section.

In every such case the commissioner of public works, in addition to the other statements, shall set forth and state in his petition the facts, so far as the same can with reasonable diligence be ascertained, in relation to any such estate, and the person, persons, or class of persons then in being or not in being, who are or may become entitled in any contingency to any estate as aforesaid in such real estate, and may pray that such estate may be acquired and such persons may be bound by the said proceedings; and thereupon the court to whom such petition is presented, if there be no attorney appearing in their behalf, shall appoint some competent and disinterested attorney or officer of the court to appear in such proceedings and represent the rights, interests, and estate of the person, persons, or class of persons aforesaid in such real estate, and to protect the same on the appraisal and proceedings aforesaid; and it shall be the duty of the court, on or after the confirmation of the report of appraisal, to ascertain by such report or by a reference for that purpose or otherwise, in its discretion, the rights, interest, and estate of such person, persons, or class of persons, in the real estate so appraised and in the compensation awarded therefor, and to make an order determining the amount of share of such compensation to which such person, persons, or class of persons are or may become entitled on account of such estate, as the same shall arise or become vested in them respectively, and to direct and to provide for the payment, investment, or securing thereof, for the benefit of the person, persons, or class of persons aforesaid, who are or who may, in the contingency upon which such estate arises, become entitled thereto. Upon the payment or deposit by the comptroller of the city of New York of the sums to be paid for the acquisition of such real estate in the manner provided in section three hundred and seventy-one, and in the manner directed by order of court the said commissioner of public works, for and in behalf of the said the mayor, aldermen, and commonalty of the city of New York, shall be entitled to enter upon, take possession of and use the said real estate for the purposes indicated, and such person, persons, or class of persons as are or may become entitled to such estate shall be barred of and from all right or claim in and to such land adverse to its use and occupation by the said commissioner or by the said, the mayor, aldermen, and commonalty. This section shall apply to all special proceedings brought prior to the twenty-fifth day of June, eighteen hundred and eighty-one, under chapter four hundred and forty-five of the laws of eighteen

Proceedings
to acquire
same.

hundred and seventy-seven and the various acts amendatory thereof, which proceedings had not been on that day concluded.

1881, ch. 582, §5.
Comp. 329.
Appointment of
commissioners.

§ 368. On presenting such petition to the supreme court as aforesaid, with proof of service of a copy thereof and notice as aforesaid, all or any of the parties whose estates or interests are to be affected by the proceedings may show cause against granting the prayer of the petition, and may disprove any of the facts alleged in it. The court shall hear the proofs and allegations of the parties, and if no sufficient cause is shown against granting the prayer of the petition, it shall make an order for the appointment of three disinterested and competent freeholders, who reside in the county (or some adjoining county) where the property to be appraised is situated; commissioners to ascertain and appraise the compensation to be made to the parties interested in the real estate proposed to be taken or affected, or theretofore taken or affected in such county for the purposes indicated in this title, and to fix the time and place for the first meeting of the commissioners.

Id. §6.
Powers and
duties of com-
missioners.

§ 369. The said commissioners shall take and subscribe the oath prescribed by the twelfth article of the constitution. Any one of them may issue subpoenas and administer oaths to witnesses, and any such witness sworn and examined and testifying falsely shall be deemed guilty of perjury, and shall be liable to the pains and penalties imposed by law for that offense. Such subpoenas may be served within this State by any person, and must be served by any sheriff or constable when thereunto required; in case of the failure or refusal of any witness so subpoenaed to obey such subpoena, or to answer any question, or to produce any books or papers when thereunto required by a majority of the said commissioners, the commissioners or a majority of them, shall report such failure or refusal to a justice of the supreme court in the said judicial district in which such commissioners were appointed, before whom the same proceedings shall thereupon be had as though such failure or refusal were that of a witness duly subpoenaed to appear and testify upon the trial of an action before such justice, and such justice shall in all respects proceed as though such subpoena had issued out of the court in which he presides; a majority of such commissioners may adjourn the proceedings before them from time to time, in their discretion. Whenever they meet, except by appointment of the court or pursuant to adjournment, they shall cause reasonable notice to be given to the parties interested, or their agent or attorney. They shall view the property described in the petition, and hear the proofs and allegations of the parties, and reduce the testimony taken by them, if any, to writ-

ing, and after the testimony in each case is closed, they, or a majority of them, all having an opportunity to be present, shall, without any unnecessary delay, ascertain and determine the compensation which ought justly to be made by the said mayor, aldermen and commonalty of the city of New York to the owners or the persons interested in the rights, titles, and privileges to be acquired or effected by the said proceeding. They, or a majority of them, shall also determine what sum ought to be paid to the general or special guardian or committee of an infant, idiot, or person of unsound mind, or to an attorney appointed by the court to attend to the interests of any unknown owner or party in interest, not personally served with notice of the proceedings, and who has not appeared, for costs, expenses, and counsel fees. They, or a majority of them, shall also (but not in excess of any request therefor made in behalf of the city) determine the height to which the waters of any lake or natural stream, concerning which such proceedings are instituted, may be raised, and the point to which such waters may be drawn down by the said the mayor, aldermen, and commonalty, such determination to be made before any award of damage shall be made on account of such proposed raising or depressing of such waters. The said commissioners shall make a report of their proceedings to the supreme court, with the minutes of the testimony taken by them, if any; and they shall be entitled to the payments hereinafter provided for their services and expenses, to be paid from the fund hereinafter provided.

See 1879, ch. 28, §1.

Report.

§ 370. On such report being made by said commissioners, the counsel to the corporation shall give notice to the parties, or their attorneys, to be effected by the proceedings, according to the rules and practice of said court at a general or special term thereof for the confirmation of such report, and the court shall thereupon confirm such report, and shall make an order containing a recital of the substance of the proceedings in the matter of the appraisal and a general description of the real estate appraised, for which compensation is to be made; and shall also direct to whom the money is to be paid, or in what bank and in what manner it shall be deposited by the comptroller of the city.

1877, ch. 445, §7.
Comp. 390.

Confirmation
of.

§ 371. A certified copy of the order to be made as aforesaid, shall be recorded, at full length, in the office of the clerk of the county in which the real estate described in it is situated, and thereupon and on the payment or deposit by the comptroller of the city of the sums to be paid as compensation for the acquisition of such real estate, or for the extinguishment of any right, title, or interest therein, and for the costs, expenses, and counsel fees as directed by said order, the said commissioner of public

Id. §8, Comp. 331.
To be recorded.

Appeal.

works, for and in behalf of the said the mayor, aldermen, and commonalty, shall be entitled to enter upon, take possession, and use the said real estate for the purposes indicated in this title, and all parties mentioned in this title who shall have been made parties to the proceedings, together with all parties claiming or to claim, by, through, or under them, shall be forever divested and barred of all right, estate, and interest in such real estate, and of all claim for any damage on account of the taking, using, or affecting of such real estate, or of any right, title or interest therein. All real estate acquired by the said the mayor, aldermen, and commonalty, under and pursuant to the provisions of this title, shall be deemed to be acquired for public use. Within twenty days after the confirmation of the report of the commissioners, as provided for in the preceding section, either party may appeal, by notice, in writing, to the other, to the supreme court from the appraisal and report of the commissioners. Such appeal shall be heard by the supreme court at any general or special term thereof on due notice thereof being given, according to the rules and practice of said court. On the hearing of such appeal, the court may direct a new appraisal and determination of any question passed upon before the same or new commissioners in its discretion, but from any determination of the general term, either party, if aggrieved, may take an appeal, which shall be heard and determined by the court of appeals. In case of a new appraisal, the second report shall be final and conclusive on all the parties interested. If the amount of compensation to be made by the said city is increased by the second report, the difference shall be a lien on the real estate appraised and shall be paid by the comptroller of the city to the parties entitled to the same, or shall be deposited in bank, as the court may direct; and if the amount is diminished, the difference shall be refunded to the said mayor, aldermen, and commonalty by the party to whom the same may have been paid, and judgment therefor may be rendered by the court, on the filing of the second report, against the party liable to pay the same. Such appeal shall not affect the possession by the said city of the real estate appraised; and when the same is made by others than the said city it shall not be heard except on the stipulation of the party appealing not to disturb such possession.

Id. §9.
Adverse and
conflicting
claims to
money.

§ 372. If there are adverse and conflicting claimants to the money, or any part of it, to be paid as compensation for the real estate taken or affected, the court may direct the money to be paid into the said court by the said comptroller, and may determine who is entitled to the same and direct to whom the same shall be paid, and may, in its discretion, order a reference to as-

certain the facts on which such determination and order are to be made.

§ 373. The court shall appoint some competent person to appear for and protect the rights of any party in interest who is unknown, or whose residence is unknown, and who has not appeared in the proceedings by an attorney or agent. The court shall also have power, at any time, to amend any defect or informality in any of the special proceedings authorized by this title as may be necessary, or to cause new parties to be added and to direct such further notices to be given to any party in interest as it deems proper, and also to appoint other commissioners in place of any who shall die or refuse or neglect to serve or be incapable of serving.

Id. §10, Comp. 332.
Interest of unknown parties.

§ 374. If, at any time, after an attempt to acquire title by appraisal of damages or otherwise, it shall be found that the title thereby attempted to be acquired is defective, the said city may proceed anew to acquire or perfect such title in the same manner as if no appraisal had been made, and at any stage of such new proceedings the court may authorize the said city, if in possession, to continue in possession, and if not in possession, to take possession and use such real estate during the pendency and until the final conclusion of such new proceedings, and may stay all actions or proceedings against the said city on account thereof on the comptroller of said city paying into court such sum as the court may direct, to pay the compensation therefor when finally ascertained, and in every such case, the party interested in such real estate may conduct the proceedings to a conclusion if the said city delays or omits to prosecute the same. And if, at any time, the said city shall require, for the purposes indicated in this title, to acquire any additional real estate, or to extinguish any other or further rights, titles, interests therein in addition to that which it has already acquired or extinguished, said city may acquire such additional real estate or extinguish such additional rights, titles, interests therein, or any such real estate, or any right, title, or interest therein which it now uses or occupies, or which it has heretofore used or occupied, by purchasing the same of the persons or parties owning the same, or interested therein, or affected by such proceedings, and by paying to such parties such damages as they may sustain by reason thereof if the amount of such compensation or damages can be agreed upon between such commissioner of public works and such persons or parties; and if such commissioner of public works shall, for any cause, be unable to agree for the purchase of such real estate, or shall be unable to agree upon the sum which shall be paid to such persons or parties in satisfaction of the damages they may sustain, or if the title to

Proceeding in case of defective titles.

1877, ch. 445, §11.

Additional real estate, acquisition of.

any such real estate or rights already acquired or extinguished, or attempted to be acquired or extinguished, shall, for any cause, prove defective or imperfect, then and in every such case such commissioner of public works may proceed to acquire and perfect title to such real estate or rights, and to ascertain and appraise such damages in the manner and by the proceedings hereinbefore in this title prescribed.

Id. §12, Comp. 333
Commissioners
of land office,
powers of.

Supervisors, etc

§ 375. The commissioners of the land office shall have power to grant to the said city any real estate belonging to the people of this State which may be required for the purposes indicated in this title, on such terms as may be agreed on between them and the said commissioner of public works, always, however, reserving and maintaining the rights of the people and riparian owners to go to the water at any point to which the same may be drawn; and if any real estate of any county, town, or school district is required by such city for the purposes of this title, the majority of the board of supervisors acting for such county, or the supervisors of any such town, with the commissioners of highways therein acting for such town, or the trustees of any school district acting for such district, may grant or surrender such real estate for such compensation as may be agreed upon between such officers, respectively, and the said commissioner of public works.

Id. §13.
Proceedings
when real es-
tate is vested in
person not com-
petent to act.

§ 376. In case any real estate required by said city for the purpose of this title shall be vested in any trustee not authorized to sell, release, and convey the same, or in any infant, idiot, or person of unsound mind, the supreme court shall have power, by a summary proceeding, on petition, to authorize and empower such trustee or general guardian or committee of such infant, idiot, or person of unsound mind, to sell, convey, or surrender the same to the said city on such terms as may be just; and in case any such infant, idiot, or person of unsound mind has no general guardian or committee, the court may appoint a special guardian or committee for the purpose of making such sale, surrender, or conveyance, and may require such security from such general or special guardian or committee as said court may deem proper. But before any conveyance or release authorized by this section shall be executed, the terms on which the same is to be executed shall be reported to the court on oath, and if the court is satisfied that such terms are just to the party interested in such rights, titles, interests, or property, the court shall confirm the report and direct the proper conveyance or release to be executed, which shall have the same effect as if executed by an owner of such rights, titles, interests, or property having legal power to sell, surrender, and convey the same.

Id. §14.

§ 377. In all cases where the commissioner of public works

shall have heretofore entered upon, taken, or used any real estate, either with or without the license of the owner thereof, for the purpose of increasing the supply of water for the city, and the title to such real estate shall not have been acquired by said city, either by purchase or by any proceedings, under any existing law, and the said city, by any of its officers, agents, or employees, shall be in possession thereof at the time this act shall take effect, and such possession shall be continued for the period of sixty days thereafter, such possession shall be deemed an election on the part of said city to take such real estate under and pursuant to the provisions of this title, and in that case it shall be the duty of the corporation counsel, at the expiration of said sixty days, to make the necessary application for the appointment of commissioners, pursuant to the provisions of this title, to appraise the damages and compensation to be paid for the taking and using of the same. The performance of such duty may be enforced by the supreme court by mandamus on the application of any owner or claimant of the real estate so taken or used, and upon the hearing before the commissioners appointed upon such application they shall, if requested by said owners or claimants, also appraise and determine the amount of damages sustained by said owners or claimants, respectively, by reason of any use or occupation of said real estate by said city, or any of its officers or agents, before the making of such application. The said commissioners shall, in their report, state the amount of damages so ascertained and determined by them, and the amount thereof shall form a part of the amount required to be paid by said city before the right and title to the real estate specified in said report shall be vested in said city as hereinbefore provided. Upon such hearing all of the provisions of this title in relation to compelling the attendance of witnesses, and the examination thereof, shall apply to the claim for damages growing out of such use and occupation.

Lands already taken, proceedings for acquiring title to, etc.

§ 378. As to any damages which may have accrued to the owner or claimant of any real estate, as to which the proceedings provided by this title may be instituted, before such proceedings shall have been instituted, this title shall not be taken or construed to deprive any party of a right to a trial by jury of the question of such damage, and the said commissioners shall estimate and determine such damages, and the compensation to be made therefor, only upon the consent of all the parties thereto. Such consent, however, shall be conclusively presumed as against any party who shall appear and take part in the proceedings to determine the amount of such damage, without first entering an objection to the determination thereof by such commissioners. In absence of such objection, but not otherwise,

1877, ch. 445, §15.
Comp. 334.
Right of action.

the said commissioners shall proceed to final determination of such question.

Id. §16.
Term "real estate" defined

§ 379. The term real estate, as used in this title, shall be construed to signify and embrace all uplands, lands under water, the waters of any lake, pond, or stream, all water-rights or privileges, and any and all easements and incorporeal hereditaments, and every estate, interest, and right, legal and equitable, in lands or water, including terms for years, and liens thereon by way of judgment, mortgage, or otherwise, and also all claims for damage to such real estate. The commissioners appointed in pursuance of this title shall receive as compensation the sum of ten dollars per day for each day actually employed. They may employ the necessary clerks and surveyors. The salaries of the commissioners and of their employees, and the necessary traveling expenses and other expenses incurred in and about such special proceedings shall be paid by the said comptroller, as provided for in this title, on the certificate of the commissioner of public works of the city of New York.

Id. §17.
Compensation of commissioners, etc.

Id. §18, Comp. 335.
Waste of water, prevention of.

§ 380. For the purpose of preventing any waste of water, the commissioner of public works of the city of New York is hereby authorized to construct such aqueducts, reservoirs, dams, sluices, canals, and appurtenances as may be necessary to collect or retain the water in or from any lakes or streams which have been heretofore taken by said city or which may be taken under the operation of this title, and use such waters as the wants and necessities of said city may require. Provided that nothing contained in any act passed before June fifteenth, eighteen hundred and seventy-seven, shall authorize or permit any water in excess of the ordinary flow thereof to be drawn from lake Mahopac and lake Glenida, in the town of Carmel and county of Putnam, between the first day of March and the first day of September in any year. And provided also that nothing in this or in any such act contained shall be so construed as to interfere with any existing right to catch fish, obtain ice, or keep, use, and maintain boats in or upon any natural lake or pond which may be acquired under this title; nor shall it be so construed as to destroy any existing right of riparian owners upon such lakes and ponds to use the waters thereof, or to build upon the shores thereof, except as such rights may be affected by the raising or lowering of the waters of such lake or ponds, as hereinbefore prescribed.

Proviso.

1879, ch. 28, §1,
Comp. 337.

§ 381. The commissioners appointed or to be appointed in any proceeding under this title, in which proceeding more than one claim is embraced, may conduct their examination as to any one of such claims at such time or times as shall seem best to them, and they may, in their discretion, postpone the ascertain-

ment or determination of the compensation to be made on such claim, until any time prior to the final termination of the proceedings, and they may, in their discretion, proceed to the ascertainment or determination of the compensation to be made on any one of such claims, notwithstanding the fact that the examination and consideration of some other claim or claims are still pending, open, and undetermined; and such action on the part of the commissioners in any proceeding now pending is hereby ratified and confirmed.

Actions confirmed.

§ 382. The commissioners referred to in the last preceding section, in any proceeding in which more than one claim is embraced, at any time in the course of such proceeding, may, in their discretion, take up any specified claim or claims, and finally ascertain and determine the compensation to be made thereon, and make a separate report with reference thereto, which report shall, as to the claims therein specified, be the report required in this title aforesaid, and the subsequent action with reference thereto shall be had in the same manner as though no other claim were embraced in such proceeding, which, however, shall continue as to all claims upon which no such separate determination and report is made.

Id. §2.
Separate report and determination may be made.

§ 383. All actions for the recovery of real property, or of any estate or interest therein, or for the determination in any form of such right or interest, and for injuries to real estate, brought under the provisions of this title, shall be brought and tried in the county in which the subject of the action, or some part thereof, is situated, subject to the power of the court to change the place of trial in cases provided by statute. If in any particular it shall at any time be found necessary to amend any pleading, proceeding, process or action, or to supply any defect therein, arising in the course of any special proceeding authorized by this title, the same may be amended or supplied in such manner as shall be directed by the supreme court, which is hereby authorized to make such amendment or correction.

1877, ch. 445, §§ 22, 23, Comp. 336.
Actions, places of trial of.

Amendment of pleadings, etc.

§ 384. All persons acting under the authority of the mayor, aldermen and commonalty, shall have the right to use the ground or soil under any street, highway or road within this state for the purpose of introducing water into the city of New York, on condition that they shall cause the surface of such street, highway or road to be restored to its original state, and all damages done thereto to be repaired.

1881, ch. 256, § 15, Comp. 287.
Right to use of ground under streets, etc.

CHAPTER X.

THE DEPARTMENT OF PUBLIC CHARITIES AND CORRECTION.

1860, ch. 510, §4,
Comp. 356.
6 Daly, 349; 62
N. Y. 660; 60 id.
385; 4 Hun, 429;
8 id, 247.
Power over
institutions and
buildings.

1869, ch. 56.
1871, ch. 139.

1860, ch. 510, §3,
Comp. 356.

1873, ch. 335, §74.
Comp. 355.
Bureaux.

1869, ch. 238, §1.
Comp. 373.

§ 385. The department of public charities and correction shall possess and exercise full and exclusive powers for the government, management, maintenance, and direction of the several institutions and buildings, and premises and property and appurtenances belonging to the city and situated upon Blackwell's, Ward's, Randell's, and Hart's islands, of all prisons and places provided for the detention of prisoners, and of all hospitals belonging to or conducted by the city, except such as are or may be established or conducted by the department of public health, especially of the alms-house and work-house, of the nurseries for poor and destitute children, and of the county lunatic asylum, the lunatic asylum upon Ward's island, and of the potter's field, or other public burial place of the poor and strangers in the city and county of New York, and especially, also, of the penitentiary and city prison, and various prisons and houses of detention in said city, which are hereby particularly designated as the institutions of the public correction and charities provided for by this chapter. But said department shall have no power over the house of refuge, nor the juvenile delinquent asylum, nor the house of detention of witnesses, nor the county or sheriff's jail.

§ 386. All books, accounts, vouchers, records, and all property of whatsoever nature at any time under the management or control of, or in the keeping of the department to which said department succeeded, or any subordinate thereof, shall remain in the keeping and custody of the department of public charities and correction, for the use of said department; but the said property shall forever remain and continue the property of the mayor, aldermen, and commonalty of the city of New York, subject to the public uses of said board, and for the purposes provided by this chapter.

§ 387. There shall be in said department a bureau of charities and a bureau of correction. The bureau of charities shall have charge of all matters relating to persons not criminals. The bureau of correction shall have charge of all matters relating to criminals.

§ 388. The said department is authorized to maintain on Hart's island an industrial school; and in connection therewith

is authorized to employ and use the labor of any person from any of the public institutions committed to its charge; and the board of public charities and correction are hereby authorized to commit to and place in said industrial school any of the children who may be committed to their care, pursuant to any provisions of law heretofore or hereafter to be made.

Industrial school authorized. Commitments to industrial schools and labor therein.

§ 389. Hart's island shall be deemed to be and shall be under the control of the said department and may be used by it for any and all purposes deemed by the board to be expedient and proper, and the board shall have the same powers, jurisdiction, and control thereof, as they have over the other premises, buildings, and institutions under their charge, and of all buildings and erections which may for any purpose or purposes be placed and maintained by said board upon said Hart's island.

Id. §2. Hart's Island to be under control of commissioners.

§ 390. The said department shall provide and maintain suitable rooms or wards in that part of the city south of Canal street, for the reception and medical and surgical treatment of persons wounded or taken ill in the streets of said city, who may not be safely moved to a hospital or their homes.

1860, ch. 376, §1, Comp. 374. Reception hospital for wounded and sick.

§ 391. The board of public charities and correction are authorized and empowered to maintain, manage, and control an asylum for inebriates erected on land belonging to the city and under their control, and the appurtenances thereto, as in the judgment of said commissioners may be necessary and proper. The said board are also authorized and empowered to appoint and employ all such physicians, surgeons, officers, and attendants as may be necessary and proper for the management and direction of said asylum, and the care of the inmates thereof, and to fix the compensation of such employees, in the same manner and with the same power as in respect to the persons employed in other institutions under the control of said board.

1864, ch. 141, §1, Comp. 368. Asylum for inebriates.

Physicians, officers, and attendants.

Compensation.

§ 392. The necessary expense of maintaining such asylum and its appurtenances shall be provided for in the same manner as the expenses of the other institutions under the control of the said commissioner. The said board 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 board, and shall be by it applied and accounted for as other moneys received by it by virtue of this chapter.

Id. §2, as amended 1867, ch. 470, Comp. 369. Expenses for constructing and maintaining. Certain fines to be paid commissioners.

§ 393. The said board shall make all needful rules and regulations for the government of said asylum, and shall provide for the proper support and maintenance of the inmates thereof, and especially for such medical treatment as will be effectual for, or tend to the curing of, such inmates of the habit of inebriety and

Id. §3. Duty and powers of commissioners.

diseases induced thereby, and they shall have full power and authority to regulate and control the inmates of said asylum, and to establish such provisions for moral and sanitary discipline as they may deem expedient.

Id. §9, Comp. 370.
Estate of inebriate liable for his support in asylum.

§ 394. The estate of any person committed to such asylum, and the person committed, shall be liable for the support of such person therein, and the committee of every such person shall pay out of his estate such reasonable and proper sum as shall be fixed by the justice or judge ordering the commitment. The said board of public charities and correction shall have authority to bring and maintain actions, in any court of competent jurisdiction, against the committee or guardians of the estate of any person committed to said asylum as aforesaid, or against any person so committed, for the support and maintenance of such person while in said asylum. Such actions may be brought by said board in the name of the mayor, aldermen, and commonalty of the city of New York, and all recoveries had in such actions shall enure to the city of New York, and all amounts collected thereon shall be received by said board, and accounted for in the same manner as all other moneys which it is by law authorized to receive.

1869, ch. 376, §10.
Comp. 374.
When persons may be transferred from alms and work-house to asylum.

§ 395. It shall be lawful for the said board of charities and correction to transfer from the alms-house and work-house under their control, to said inebriate asylum, any persons committed to the alms-house or work-house, who, in the judgment of said board, shall be fit and proper subjects for the said asylum, and, in their discretion, to return such persons to the alms-house or work-house; provided, however, that no person shall, by reason of such transfer, be restrained of his liberty for a longer term than required by his original sentence or commitment.

1881, ch. 49.
Commissioners may transfer insane persons to insane asylum.

§ 396. The board of public charities and correction are hereby authorized, in their discretion, to transfer any insane person, heretofore or hereafter committed to, or being in their custody, or in any institution under their control, to any state lunatic asylum, the managers or proper officers of which shall consent to receive the same; and every such person so transferred shall be detained, or permitted to remain in any such asylum, until discharged according to law. The expense of the maintenance of every person so transferred, which shall be fixed by agreement between said commissioners and such managers or officers, and of removing from, and, in case of discharge, of bringing back to said city every such person, shall be estimated for, raised and paid in the same manner as the other expenditures of the said commissioners of the department of charities and correction, such expenses not to exceed the present cost of their maintenance,

Expenses, how to be paid.

§ 397. The said board shall have authority, at any time, to discharge from said asylum any person committed thereto, for the following causes, viz.:

1869, ch. 376, §12.
Comp. 374.
Causes for
which commis-
sioners may dis-
charge.

1. That said person is cured.
2. That such person is incurable, and incapable of being permanently benefited by the treatment and discipline of said asylum.
3. That such person has failed to pay for his support therein, or has been guilty of vicious conduct, prejudicial to the good order and discipline of the institution.

§ 398. It shall be lawful to detain in the work-house, for the purpose of employment therein, any person who shall have been duly committed to the city prison, the penitentiary, or the alms-house; but it shall not be lawful for vagrants or paupers, or the recipients of the public charities of the said department, unless they have been before convicted of crime, to be employed in company or in association with persons committed as aforesaid, for offenses other than intoxication, or assault and battery, not felonious. The board may transfer and commit, or cause to be transferred and committed from the said city prison, penitentiary, or alms-house, to the said work-house, or to such parts of Blackwell's island as are set apart for purposes of public criminal correction (subject to the prohibition of company and association aforesaid), the following classes of persons: persons committed for crime; persons in the alms-house; persons applying for relief to the department, providing their own consent to such transfer or committal be obtained; persons committed by magistrates as vagrants or disorderly persons. No person committed to the city prison for disorderly conduct shall be transferred from said prison until after the expiration of forty-eight hours after the commitment. No person committed to the said city prison or the work-house for drunkenness or disorderly conduct, shall be released or discharged from confinement before the expiration of the term for which he or she shall be committed, except upon reversal of judgment upon appeal, or review by a court of superior jurisdiction to the magistrate making the commitment, without a written order directing such discharge be made and signed by the committing magistrate and one of the commissioners of public charities and correction.

1860, ch. 510, §7,
as amended
1864, ch. 586, §1.
Comp. 358.
Persons com-
mitted to city
prison may be
detained in
work-house.

When dis-
charged.

§ 399. Every person whose age or health will permit shall be employed in getting out stone or in cultivating the grounds under used of the said department, or in manufacturing such articles as may be required for the ordinary use of the institutions under the control of the said board of commissioners, preparing and building sea-walls around the islands or other places upon which the said public institutions now are or may hereafter be

1860, ch. 510, §8.
Persons con-
fined in work-
house, how em-
ployed.

located, or at such mechanical or other labor as on trial shall be found to suit the capacity of the individual. It shall be the duty of the department to use every proper means to furnish convicts and paupers with suitable employment by contract; such employment, however, not to conflict or come into competition with any mechanical or other employment pursued by the people of this State. And in case any convict or pauper shall neglect or refuse to perform the work allotted to him or her, by the person in charge, it shall be the duty of the proper subordinate to punish such convict or pauper by confinement, by being fed on bread and water only, for such length of time as may be considered necessary; which refusal and punishment shall forthwith be reported to said board of commissioners. And in case any pauper shall refuse or neglect to perform the work assigned to him or her on three several occasions, the said board may expel such pauper from the alms-house.

1860, ch. 510, §9.
Comp. 359.
Hours of labor.

§ 400. The hours of labor shall not exceed ten per day to each person subject to the discipline of the department, and shall be fixed by the board; and the articles raised or manufactured shall be subject to the order, and placed under the control of said board. All the grounds occupied by the said department, or under the jurisdiction of the board, not otherwise occupied, and which are capable of cultivation, shall be used for agricultural purposes, and improved in such manner as will yield the greatest revenue to the department; and the proceeds arising from the sale of articles thus raised shall be paid monthly into the hands of the board, and be by them paid over to the city chamberlain, and a memorandum thereof filed with the department of finance of the city and county of New York.

Id. §10.
May open account with paupers.

§ 401. The board may open, in their discretion, an account with all paupers committed to said work-house, charging them with all the expenses incurred by the city for their board and maintenance, and crediting him or her with a fair and reasonable compensation for the labor performed by such pauper; and at the expiration of the term of sentence, if any balance shall be found to be due to them, may pay the same to such pauper in cash at the time of their discharge, in the discretion of the board.

Id. §11.
Paupers and criminals to be kept separate.

§ 402. It shall be the duty of the said board to cause to be kept and employed, separate and apart from each other, the paupers and criminals, and as far as possible to cause the latter to be classified, so that the novice in crime may not become contaminated by the evil example of, or by association and contact with the more hardened and confirmed.

Id. §12.

§ 403. Each superintendent, each warden or chief officer of the several institutions under charge of the department, shall

make his requisitions, in writing, on the board, for all articles deemed necessary by the said board, to be used in the respective institutions under his charge and shall keep an accurate account of the same.

Requisition of subordinates to be in writing.

§ 404. Each said superintendent, warden or chief officer, shall, once in each week, report to the board the number of persons received, transferred, sick, died, and remaining in the respective institutions under their charge; also the quantity and kind of labor performed.

Id. §13.
To report weekly.

§ 405. The officer having charge of the alms-house shall daily send all paupers residing in the alms-house, capable of performing any work, and not otherwise employed, to the work-house, or such other of the institutions, the city prisons and penitentiary excepted, where they shall be put at such labor as the chief officer thereof may be authorized by the board of commissioners to direct.

1860, ch. 510, §14.
Comp. 339.
Certain paupers in alm-shouse to be transferred to work-house.

§ 406. It shall be the duty of the officer in charge of the nurseries to provide suitable employment for all the children under his care, under such regulations and provisions as are hereinbefore provided for in reference to paupers committed as aforesaid.

Id. §15.
Comp. 360.
Children to be employed.

§ 407. The board of public charities and correction shall be authorized to make, from time to time, such rules and by-laws for the management and government of the department, and especially of each institution, as may seem to them necessary, and which shall not be inconsistent with the provisions of this chapter, nor contrary to law.

Id. §16.
May make rules and by-laws.

§ 408. The board shall, whenever the increase of inmates in, or the proper care and government of, the institutions or establishments on Randall's island, or Blackwell's island, or the Bellevue hospital, under their charge, or any other of them, shall, in their judgment, render it necessary or expedient, have power to enlarge, add to, or alter the buildings belonging to such institutions, or any one of them, and to erect other buildings on said islands, or within the inclosure of Bellevue hospital, for the uses and purposes of said institutions, or any one of them. The board shall also have power to lay out a potter's field, where not already laid out, to make inclosures therein, to build vaults therein, and to provide all necessary labor therefor, and for interments therein. They shall also have power to make all needful repairs to buildings or property under their control. But they shall by virtue of this section incur no expense in excess of the sum appropriated therefor.

Id. §17.
May add to or improve buildings.

§ 409. The commissioners, or any one commissioner, shall have power in the forms and with the provisions now prescribed by law to indenture and bind out, as apprentices during their

Id. §18.
May apprentice and bind out children.

60 N. Y., 386.
1871, ch. 607, §2,
Comp. 365.

minority, any minor children who may be committed to their care by any police magistrate, and shall have, with reference to those so committed, and any minor children, the same powers in respect thereto as are possessed by the managers of the house of refuge for juvenile delinquents; and the board, or any commissioner, shall have power, in their discretion, to cancel such indentures; and they may bind out such children for the employment of farming, or any useful art or trade, to citizens of the adjoining States.

1881, ch. 442,
§910.
Bind out disorderly persons.

§ 410. The commissioners, when so authorized by the court of sessions, may bind out any minor who has been committed as a disorderly person to some lawful calling, as a servant, apprentice, mariner, or otherwise, until he be of age; or if any person so committed be of age, said commissioners may, when so authorized, contract for his service with any person as a laborer, servant, apprentice, mariner or otherwise for not exceeding one year. Such binding out or contract, pursuant to this section, has the same effect as the indenture of an apprentice with his own consent and that of his parents, and subjects the person bound out or contracted, to the same control of his master, and of the court of sessions, as if he was bound as an apprentice.

1880, ch. 510, §24,
Comp. 360.

§ 411. Whenever, in any act or ordinance not inconsistent with the provisions of this act, but applicable thereto, the words alms-house department of the city of New York shall occur, it shall be taken to mean and refer to the department of public charities and correction, and in like manner the words governor or governors of the alms-house shall be taken to mean the commissioner or commissioners referred to in this chapter.

1871, ch. 607, §1,
Comp. 364.
Commitments.

§ 412. It shall be lawful for the board of public charities and correction to commit to any of the institutions under their charge other than penal, for a period not exceeding six months, any person or persons committed to their charge by any police magistrate of the city of New York, and such vagrants as ask for commitment.

1880, ch. 329, §9,
Comp. 364.

§ 413. It shall be lawful for the said board, and it shall have power, in relation to all persons who shall hereafter be committed to any institution under their charge as vagrants, by reason of their being "persons who shall have contracted an infectious or other disease in the practice of drunkenness or debauchery, requiring charitable aid to restore them to health," after the same shall have been under medical treatment sufficiently cured to be discharged or to work or labor, in their discretion to detain such person or persons, and transfer or commit them to the work-house, until from the proceeds of their work and labor there shall have been received by said board, beyond the charge of

their support while in said work-house, a sum sufficient to reimburse all the expenses of their charge and cure while under medical treatment as aforesaid. Provided that under this section no such person shall be detained or committed to said work-house for a longer period than six months.

§ 414. The said commissioners shall not, in the cases where by law they are empowered to discharge vagrants from the institutions under their control, hereafter discharge any of said vagrants from custody before the expiration of their terms of imprisonment, without the written consent of the committing magistrate in each case.

1859, ch. 491, §5.
Comp. 1421.

§ 415. No insane person shall be discharged from the lunatic asylum of the said county without the certificate in writing of the physician thereof, which certificate shall be filed and kept in said asylum, stating that such discharge is safe and proper.

1867, ch. 343, §1.
Comp. 376.
1865, ch. 353.

§ 416. The board of public charities and correction are hereby authorized, in their discretion, to permit the reception and treatment in Bellevue hospital of persons who do not reside in the city of New York, provided that every person so received and treated shall be required to pay such sum for board and attendance as may be fixed by said board. All sums so paid shall be reported by the said board to the comptroller, and paid over to the chamberlain once in every three months, and shall be added to, and form a part of, the annual appropriation made by the board of estimate and apportionment for supplies for said department, and may be expended in the same manner as the moneys appropriated for that purpose by said board of estimate and apportionment.

1880, ch. 181, §1.
Board may permit persons not residing in N. Y. city to be treated in Bellevue hospital.
Proviso.
Money received to be paid to the comptroller.

§ 417. The board of public charities and correction are hereby authorized to transfer to the care and charge of "The Shepherd's Fold, of the Protestant Episcopal church, of the State of New York," such orphan and friendless children as are eligible by the charter and constitution of said society.

1868, ch. 775, §2.
Comp. 375.

§ 418. The said board is authorized and empowered to insert in the annual departmental estimate of the expenditures required for that department, directed to be furnished to the board of estimate and apportionment, an item of expenditure for the relief of poor adult blind persons in the city, not to exceed twenty thousand dollars. Said board shall distribute the sums appropriated each year, in uniform sums, not to exceed fifty dollars to any one person, to such poor adult blind persons, not inmates of any of the public or private institutions in said city, as have resided in said city continuously for two years previous to the application for said relief, and under such rules and restrictions as the said department may deem necessary.

Transfer of orphan and friendless children.
1875, ch. 404, §§1, 4, Comp. 365.
Relief of the blind.

§ 419. All the provisions of sections seventy-five, seventy-six,

1870, ch. 424, §1.
Comp. 375.

Acts relating to annual reports extended to commissioners. See Rev. Sta. Pt. 1, ch. 20, title 1, §§75, 76, 77, 78; 1842, ch. 214; 1842, ch. 100.

1870, ch. 424, §3, Comp. 370. Annual reports, when to be made. Id. §6. Secretary of state to furnish forms and blanks.

1813, ch. 66, §250, Comp. 362.

1881, ch. 442, §§914, 915, 920. Who may be compelled to support poor relatives.

1881, ch. 442, §881. Bastardy bond.

1881, ch. 442, §924. Abandonment bond.

seventy-seven, and seventy-eight, of chapter twenty, title one, part one, revised statutes of the State of New York, as amended by chapter two hundred and fourteen, laws of eighteen hundred and forty-two, and chapter one hundred, laws of eighteen hundred and forty-nine, relating to reports by superintendents of the poor of the several counties of the State to the secretary of state, and the penalties for the neglect of duties under said acts are extended to and made applicable to the board of public charities and correction. The said board are hereby required to make an annual report to the secretary of state, on or before the tenth day of January of each year (covering the year ending November thirty), upon the statistics of the poor required to be made by said acts. The secretary of state shall, from time to time, furnish the said board with the necessary forms, blanks, and instructions required in making up reports upon the statistics of the poor.

§ 420. Any person who may have or hereafter shall come into the city from any other State within the United States, shall not be deemed and adjudged legally settled in the said city unless the party shall first prove to the satisfaction of the board of public charities and correction that after his or her arrival therein, he or she, as the case may be, shall have acquired such requisites to constitute a settlement as are necessary in and by the laws of such State from whence he or she may have come as aforesaid.

• § 421. The father, mother, and children, of sufficient ability, of a poor person who is insane, blind, old, lame, impotent or decrepid, so as to be unable by work to maintain himself, must, at their own charge, relieve and maintain him in a manner to be approved by the commissioners of charities and correction. If a relative of a poor person fails to relieve and maintain him as in this section provided, the said commissioners may apply to the court of sessions for the order authorized by law in such cases. The action authorized by law for a failure to comply with an order of court requiring the payment of a weekly sum for such support must be in the name of the mayor, aldermen, and commonalty.

§ 422. When the court orders the prosecution of an undertaking for the appearance at the court of sessions of a person charged as the father or mother of a bastard, the prosecution must be by the commissioners of charities and correction and the amount collected must be paid into the city treasury.

§ 423. The security required according to law, that a wife or children, abandoned, shall not be chargeable to the city, must be satisfactory to the commissioners of charities and correction.

CHAPTER XI.

THE FIRE DEPARTMENT.

Title 1.—Organization, Duties, and Powers of its Officers and Members.

§ 424. The board of fire commissioners shall possess and exercise, fully and exclusively, all powers, and perform all duties for the government, management, maintenance, and direction of the fire department of the city, and the premises and property thereof. The said department shall have sole and exclusive power and authority to extinguish fires in said city. All real estate, fire apparatus, hose, implements, tools, bells, and bell-towers, fire telegraph, and all property, of whatever nature, in use by the firemen or fire department of the city, belonging to said city, shall be in the keeping and custody of the fire department, and for the use of said department. But the said property shall remain the property of the mayor, aldermen, and commonalty of the city of New York, subject to the public uses of said department, as aforesaid, and for the purposes provided by this chapter. And whenever any of the said property shall no longer be needed by the said department for the purposes of this chapter, they shall surrender the same to the said the mayor, aldermen, and commonalty.

1865, ch. 249, §3,
Comp. 383.
Powers of de-
partment.
8 Daly, 425,
49 How. 67.

1865, ch. 249, §17.
Comp. 384.
Transfer of
property of old
fire depart-
ment

§ 425. The said board shall, subject to the other provisions of this act, have full power to provide supplies, horses, tools, implements, and apparatus of any and all kinds (to be used in the extinguishing of fires), and fire telegraphs, to provide suitable locations for the same, and to buy, sell, construct, repair, and have the care of the same, and take any and all such action in the premises as may be reasonably necessary and proper.

Board to pro-
vide horses,
apparatus, etc.
1865, ch. 249, §6.

§ 426. The board shall possess and exercise full and exclusive power and discretion for the government, management, maintenance, and direction of the several buildings and premises, and bell-towers, and property, and appurtenances thereto, and all apparatus, hose, implements, and tools of any and all kinds which may belong to or be in the use of the said department.

Id. §7.
1871, ch. 51,
Comp. 1193.
Department to
control and
manage
property.

§ 427. There shall be in this department four bureaus. One bureau shall be charged with the duty of preventing and extinguishing fires and of protecting property from water used at

1873, ch. 335, §76,
Comp. 379,
as amended
1880, ch. 321, §1.

Investigation
of the origin of
fires.

fires, the principal officer of which shall be called the "chief of department." Another bureau shall be charged with the execution of all laws relating to the storage, sale, and use of combustible materials, the principal officer of which shall be called "inspector of combustibles." Another bureau shall be charged with the investigation of the origin and cause of fires, the principal officer of which shall be called "fire marshal." Another bureau shall be known as the "bureau of inspection of buildings." The head of the bureau of inspection of buildings shall be known as the inspector of buildings, and the said bureau shall, under and subject to such rules, regulations, and orders as may be established by the board of fire commissioners, have charge of all matters relating to buildings and structures in the city of New York devolved on said department. The "inspector of buildings" may be authorized by the board of fire commissioners to perform any duty, or to exercise any power or authority, intrusted to said department with reference to buildings and structures.

Inspector of
buildings to be
appointed.

1865, ch. 249, §14,
Comp. 383.
Election of
officers.
See 1873, ch.
335, §§28, 78.

§ 428. The said board shall have power to select heads of bureaus and assistants and as many officers and firemen as may be necessary, and the same shall at all times be under the control of the said board, and perform such duties as may be assigned to them by the said commissioners.

1871, ch. 742, §7,
Comp. 385.
Location of fire-
alarm tele-
graph.

§ 429. Said board shall have exclusive right and power from time to time to designate and fix the location of all fire-alarm telegraph, signal and alarm stations in the city, and to have access to and the control of the same for the purposes of the department; to fix upon and adopt the colors or combination of colors in painting the poles, boxes, and fixtures thereof, and the kind or style of keys and appliances by which to operate the same; to select and designate the places of deposit for keeping the keys of the various stations, and to designate the offices and persons who shall be intrusted with duplicate keys and authorized to use the same, and to make from time to time such rules and regulations governing the possession, return or use thereof, and as to the use and control of said telegraph, as they may deem necessary; and no person other than the said commissioners or their officers and their employees specially authorized to operate said telegraph, or to use the same for instruction or drill, or policemen or citizens using the same for communicating an actual alarm of fire, shall make use thereof; and no person shall use the keys or appliances thereof for communicating a false alarm, or experimenting or tampering with the same for any purpose whatever, or have or possess any key thereof, without such authority; and no person, association, corporation, or company shall post, paint, impress, or in any way affix to any

Regulations for
control of
telegraph.

Making false
alarms or multi-
plying poles
and wires.

pole connected with said fire-alarm telegraph, or any box, wire, or other appliance connected therewith, any placard, sign, broadside, notice, or announcement of any kind, or cut, mutilate, alter, mar, deface, cover, obstruct, or interfere with the same in any manner whatsoever, or paint or cause to be painted, the poles of any other telegraph, or any other poles on the lines thereof, of a similiar color or colors, or in imitation thereof, nor consent, allow, or be privy to any of said things being done for them or upon their behalf; and any offense against the provisions of this section shall be punished as a misdemeanor, and subject the party or parties violating the same to an additional penalty of one hundred dollars. No kite shall be flown, raised, or put up in the streets or avenues adjacent to the lines of said telegraph, or allowed to become entangled with the wires or apparatus of said telegraph, under a penalty of ten dollars for every such offense; and the board of police and their officers are specially charged and directed to aid in the enforcement of this section.

Flying of kites
adjacent to
telegraph.

§ 430. The said board of fire commissioners shall, subject to the other provisions of this act, provide such offices and business accommodation as may be requisite for the transaction of the business of the department and that of its subordinates. The department may adopt a common seal and direct its use.

1865, ch. 249, §13.
Comp. 383.
Business offices

§ 431. The board of fire commissioners is hereby authorized, empowered, and especially charged with the duties of enforcing the several provisions of this chapter, and may, subject to the other provisions of this act, incur any expense necessary and proper therefor; and said board is hereby authorized and empowered to receive and collect all license fees mentioned in this chapter, and to sue for, and shall have the exclusive right of recovery of, any and all penalties imposed under this chapter, and may sue for and recover and collect the same, with costs, in the manner provided for in actions under the Code of Civil Procedure, and shall apply the same to the uses and purposes of the relief fund of the fire department in the city of New York, and the said board may bring any suit or action for the enforcement of its rights and contracts, and for the protection, possession, and maintenance of the property under the control of said department; and any action to recover any fee, fine, or penalty under this chapter may be brought in any of the district courts in said city; and the attorney to the fire department shall, under the direction of said board, take charge of the prosecution of all suits or proceedings instituted for the recovery and collection of penalties, and the enforcement of the several provisions of this chapter; collect and receive all moneys upon judgments, suits,

1871, ch. 742, §12.
Comp. 389.
Enforcement of
this act.
License fees.

Suits or actions,
how brought.

1865, ch. 385, §22,
Comp. 383.
Duties of attorney
to the department.

Payment of
moneys to
treasurer of re-
lief fund.

or proceedings so instituted ; pay all costs and disbursements, and discontinue suits and proceedings, and execute satisfaction of judgments upon payment of penalties, or costs, and in compliance with orders made in such suits and proceedings ; shall keep a correct and accurate register of all suits and proceedings, and account for all moneys received and paid out thereon ; and shall pay over to the treasurer of the relief fund the amount of all license fees, penalties and moneys received and collected by him, and the said board is authorized to settle or compromise any such suit or judgment for less than the amount of the same, in case, in their judgment, they are satisfied that payment of the full amount cannot be collected. •

1873, ch. 335, §70,
as amended
1880, ch. 521, §1.
Attorney to
the fire
department.

§ 432. The board of fire commissioners may appoint a person regularly admitted to the bar, and practicing in the city of New York, to be attorney to the fire department. He shall perform, as attorney, such duties connected with the fire department as are prescribed by this chapter, and as may be required of him by the board of fire commissioners. He shall be removed for cause, and after an opportunity to be heard.

1865, ch. 249, §8,
Comp. 333.
When commis-
sioners shall be
deemed to have
vacated their
office.

§ 433. Any commissioner who shall, during the term of his office, be publicly nominated for any office elective by the people, and who shall not decline the said nomination within ten days succeeding notice of the same, shall be deemed to have vacated his office.

1865, ch. 249, §24,
Comp. 336.
Uniforms and
badges.

§ 434. It shall be the duty of said department to make suitable regulations under which its officers and men shall be required to wear any appropriate uniform and badge, by which in case of fire and at other times, the authority and relations of such officers and men in said department may be known as the exigency of their duties may require. It shall be a misdemeanor, punishable by imprisonment in the county jail for a period of not less than sixty days, for a person not enrolled or employed, or appointed by the said department, to wear the whole or any part of the uniform or insignia prescribed to be worn by the rules or regulations of the board, or do any act as firemen not duly authorized by the commissioners, or to interfere with the property or apparatus of the fire department in any manner, unless by the authority of the department. Any person who shall falsely represent any of the members of the fire department, or who shall maliciously, with intent to deceive, use, or imitate any of the signs, fire-caps, badges, signals, or devices adopted or used by the said department, shall be deemed guilty of a misdemeanor, and shall be subject to a fine of not less than twenty-five dollars, or more than two hundred and fifty dollars, and to imprisonment for a term not less than ten days, or more than three months, such fines, when col-

1865, ch. 249, §21,
Comp. 335.
Penalty for un-
lawfully wear-
ing uniform, etc.
1855, ch. 112, §17.
Comp. 336.
Deceptions and
false alarms.

lected, to be paid over to the trustees of the New York fire department relief fund.

§435. No person shall ever be appointed to membership in the fire department, or continue to hold membership therein, who is not a citizen of the United States, or who has ever been convicted of crime, or who cannot read and write understandingly in the English language, or who shall not have resided within the State one year.

1873, ch. 335, §78,
as amended
1873, ch. 757, §11.
Comp. 390.
Membership.

§ 436. No member of the fire department shall, under penalty of forfeiting the salary or pay which may be due to him, withdraw or resign, except by permission of the board of fire commissioners. Unexplained absence, without leave, of any member of the uniformed force, for five days, shall be deemed and held to be a resignation by such member, and accepted as such.

1870, ch. 137, §51,
Comp. 381.
See 1873, ch.
335, §77.
Resignations,
how made.

§ 437. No person holding office under this department shall be liable to military or jury duty, nor to arrest on civil process, or, whilst actually on duty, to service of subpoenas from civil courts.

1870, ch. 137, §58,
Comp. 382.
Firemen ex-
empt from jury
duty and civil
arrest.

§ 438. Every member of the uniformed force shall have issued to him, by the board a proper warrant of appointment, signed by the president of the said board, and secretary or assistant secretary, which warrant shall contain the date of his appointment and his rank.

Id. §61.
Warrants of
appointment.

§ 439. Each member of the uniformed force shall take an oath of office, and subscribe the same before an officer of the department empowered to administer an oath.

Id. §62.
Oaths of office.

§ 440. The government and discipline of the fire department shall be such as the board may, from time to time, by rules, regulations, and orders prescribe. The board shall have power, in its discretion, on conviction of a member of the force of any legal offense or neglect of duty, or violation of rules, or neglect or disobedience of orders, or incapacity, or absence without leave, or any conduct injurious to the public peace or welfare, or immoral conduct, or conduct unbecoming an officer, or other breach of discipline, to punish the offending party, by reprimand, forfeiting and withholding pay for a specified time, or dismissal from the force; but no more than ten days' pay shall be forfeited and withheld for any offense. Officers and members of the uniformed force shall be removable only after written charges shall have been preferred against them, and after the charges have been publicly examined into, upon such reasonable notice to the person charged, and in such manner of examination as the rules and regulations of the board of fire commissioners may prescribe.

1873, ch. 335, §77,
Comp. 379.
Discipline,
rules, orders,
etc.
1870, ch. 137, §60,
Comp. 382.
Punishment of
members of
force by
dismissal, etc.
77 N. Y. 143.
Fines.
1873, ch. 335, §77.
Comp. 379.

§ 441. An intention to reduce the force and expense of the bureau of inspection of buildings, or the clerical force of the

1873, ch. 335, §76,
as amended
1880, ch. 521, §1.

department, shall be deemed sufficient ground for the removal of any officer or employee of said bureau, except the chief officer thereof, and of any clerk in the department. The board of fire commissioners is authorized to abolish any office, clerkship, or employment in the said bureau of inspection of buildings, and they may consolidate the duties of any two or more officers, clerks, or employees thereof.

1873, ch. 335, §116,
as amended
1890, ch. 521, §2.

Salaries of fire
department.

Grading of
firemen.

1865, ch. 249, §26,
Comp. 386.
Fire depart-
ment and police
to co-operate.

§ 442. The salary attached to either of the following positions in the fire department shall not exceed the sum here designated as the maximum salary of such position when held by any person appointed to the uniform force of said fire department after May twenty-ninth, eighteen hundred and eighty: For chief of battalion, two thousand dollars; for a foreman, fourteen hundred dollars; for an assistant foreman, thirteen hundred dollars; for an engineer of steamers, twelve hundred dollars; for an assistant engineer of steamers, eleven hundred dollars. The members of the uniform force, appointed after May twenty-ninth, eighteen hundred and eighty, shall, on their appointment, become members of what shall be known as the third grade, at a salary of eight hundred dollars per year; after two years of service in such third grade, they shall, if their conduct and efficiency has been satisfactory, be advanced to what shall be known as the second grade, at a salary of nine hundred dollars per year; after two years service in such grade, they shall on like conditions, be advanced to what shall be known as the first grade, at a salary of one thousand dollars per year. But no member of such uniformed force shall be so advanced, as aforesaid, except after examination and approval of his record, efficiency, and conduct by the board of fire commissioners.

§ 443. It shall be the duty of the fire department and of the police board, their respective officers and men, to co-operate together in all proper ways, and the said board and department may respectively provide for protection against fire, and for the arrest of all persons who may at or near any fire commit, or attempt to commit, any crime against the laws of this State, or violate any rule or regulation of said board or department.

Title 2.—Fires and their Extinction.

1865, ch. 249, §15,
Comp. 384.
Right of way.
Penalty for
refusing right
of way.

§ 444. The officers and men of the fire department, with their apparatus of all kinds, when on duty, shall have the right of way at any fire, and in any highway, street, or avenue, over any and all vehicles of any kind, except those carrying the United States mail. And any person in or upon or owning any vehicle, who shall refuse the right of way, or in any way ob-

struct any fire apparatus, or any of said officers, while in the performance of duty, shall be guilty of a misdemeanor, and be liable to punishment for the same.

§ 445. The board of fire commissioners is empowered to provide for the laying on the railway tracks of the city, over the hose used by the department for the extinguishment of fires, of such hose-bridges as they may deem necessary; and the various horse and steam railway companies running cars within the limits of the city of New York shall provide and use such hose-bridges as may be designated by the board of commissioners of the fire department. Such bridges shall be paid for by the railway companies using the same.

1871, ch. 742, §9.
Comp. 398.
Hose-bridges
on railway
tracks.

§ 446. No person shall in any manner obstruct the use of any fire-hydrant in said city, or allow any snow or ice to be thrown or piled upon or around the same, or have or place, or allow to be placed, any material in front thereof, from the curb line to the centre of the street, and to within ten feet from either side thereof, and all snow and ice accumulating within such space shall be removed by the owner or owners, lessee or lessees, of the premises fronting the same in the same manner as is prescribed for the keeping clear of the sidewalk, under a penalty of ten dollars for each and every such offense; and any and all material found as an obstruction, as aforesaid, may be forthwith removed by the officers or employees of said board, and at the risk, cost and expense of the owner or claimant, and said board may take all proper measures to keep said hydrants from freezing and in proper condition for use at all times.

1871, ch. 742, §6.
Comp. 395.
Obstructions of
fire hydrants.

Removal of
snow, ice, etc.

§ 447. The board of fire commissioners is hereby empowered and directed to maintain in the fire department a corps to be known as the corps of sappers and miners. Said corps shall be composed of not exceeding three members, either officers or private firemen, of each company in said fire department, and said members shall be appointed by said board, upon the nomination of the chief engineer of said fire department. The said board shall appoint a suitable officer, who shall be skilled in the use of explosives, whose duty it shall be to instruct and drill said corps in the use of explosives, and to give said corps such other instruction as may be required to qualify them to effectually discharge the duties imposed upon them by this title. Such officer shall receive an annual salary of two thousand dollars, and such salary shall be raised and paid in the same manner as the salaries of the other officers appointed by said board.

1873, ch. 726,
§§1, 2, Comp.
387.
Corps of sap-
pers and miners
Officer for drill
corps.

§ 448. Whenever, under and by virtue of the acts relating to the extinguishment of fires in said city, the destruction or pulling down of any building or buildings shall be deemed necessary, and shall be ordered by the officer in command at any fire in

Id. §3.

When buildings
to be pulled
down.

said city, it shall be the duty of said corps, or any member or members thereof, by the direction of the said officer in command at such fire, to level and destroy such building or buildings by the use of explosives, for the purpose of arresting the spread of such fire, and it shall be lawful for them to enter and take possession of the same for such purposes.

1873, ch. 726, § 4.
Comp. 287.
Depots for stor-
age of
explosives.

§ 449. The board of fire commissioners shall establish, in the city of New York, one or more depots for the storage and safe keeping of such explosives as may be required for the use of said corps, and may limit the quantity of any such explosives to be kept at any one of such depots.

1813, ch. 86, § 81.
Comp. 412.

Buildings, when
to be pulled
down.

17 Wend. 285; 18
id. 126; 20 id. 139;
25 id. 157; 9
Paige, 568; 2
Denio, 461; 3
Zabriskie(N.J.),
9,590.

Payment to per-
sons sustaining
loss.

§ 450. When any building or buildings in the city of New York shall be on fire, it shall be lawful for the mayor, or in his absence the recorder of the city, with the consent and concurrence of any two of the aldermen thereof, or for any three of the aldermen, to direct and order the same, or any other building which they may deem hazardous, and likely to take fire, or to convey the fire to other buildings, to be pulled down or destroyed. Upon the application of any person interested in such building so pulled down or destroyed, to the court of common pleas it shall be its duty to issue a precept for a jury to inquire of and assess the damages which the owners of such building and all persons having any estate or interest therein, have respectively sustained by the pulling down or destroying thereof; which precept shall be issued, directed, executed, returned, and proceeded upon, and the proceedings thereon shall take effect, as nearly as may be, in such manner as by the second and fourth titles of chapter sixteen of this act is provided in the case of land taken for public purposes; and the said inquiry and assessment having been confirmed by the said court, the sums assessed by the said jury shall be paid by the said mayor, aldermen and commonalty to the respective persons in whose favor the jury shall have assessed the same, in full satisfaction of all demands of such persons respectively by reason of the pulling down or destroying such building; and the court, before whom such process shall be returnable, shall have power to compel the attendance of jurors and witnesses upon any such assessment of damages.

Id. § 82.

Idle and suspi-
cious persons
may be remov-
ed from fires.

§ 451. During the actual prevalence of any fire, it shall and may be lawful for the officers of the police and fire departments to remove or cause to be removed and kept away from the vicinity of such fire, all idle and suspicious persons, and all persons not fit to be employed or not actually and usefully employed, in their judgment, in aiding the extinguishment of such fire or in the preservation of property in the vicinity thereof.

Officers.

Title 3.—Prevention of Fires. Explosive and Combustible Materials.

§ 452. All carpenters or others in said city making or using shavings, shall, at the close of each day, cause the same to be securely stowed in some safe place remote from danger by means of fire, under the penalty of five dollars for each omission so to do. No person shall kindle any fire nor furnish the materials nor in any way authorize or allow any fire to be made in any street, road, alley, lane, or upon any pier, wharf, or bulkhead in said city, except under such regulations as shall be established by said board of fire commissioners, under a penalty of ten dollars for each and every such offense. If any chimney, stove-pipe, or flue within the said city shall take fire, the occupant of the premises to which such chimney, stove, or flue appertains shall forfeit the sum of five dollars.

1871, ch. 584, §2, Comp. 418.
1880, ch. 169, §1.
Shavings, how stowed away.
1871, ch. 742, §5, Comp. 395.
1880, ch. 169, §1, Unchanged.
Kindling fires in streets, etc.
Penalty.

§ 453. All hoistways, well-holes, trap-doors, and iron shutters shall be closed at the completion of the business of each day by the occupant of the building having use or control of same, and in case of a violation of this provision, such occupant having the use or control thereof shall forfeit and pay a penalty of fifty dollars for each and every neglect or omission so to do. And for any accident or injury to life and limb, resulting directly or indirectly from any neglect or omission to properly comply with any of the requirements of this section, the person or persons culpable or negligent in respect thereto shall be liable to pay to any officer, agent, or employee of said board injured, or whose life may be lost (resulting from such neglect or omission) while in the discharge or performance of any duty imposed by said board, or to the wife and children, or to the parents, or to the brothers and sisters, being the surviving heirs-at-law of any deceased person thus having lost his life, a sum of money in case of injury to person not less than one thousand dollars, and in case of death not less than five thousand dollars, such liability to be determined and such sums recovered in an action to be instituted by said board for and in behalf of any person injured, or the family or relatives of any person killed as aforesaid; and any and all persons for any fire resulting from his or their willful or culpable negligence, or criminal intent or design, shall, in addition to the present provisions of law for the punishment of persons convicted of arson, be liable in a civil action for the payment of any and all damages to the person and property the result of such fire, and also for the payment of all costs and expenses of said board incurred in and about the use of employees, apparatus, and materials, in the extinguishment of any fire re-

1860, ch. 873, §56, Comp. 406, as amended
1880, ch. 169, §1.
1871, ch. 742, §8, Comp. 396.
Closing of hoistways, trap-doors and iron shutters.

Liability in civil actions for negligence, etc.

sulting from such cause, the amount of such costs and expenses to be fixed by said board, and when collected shall be paid into the relief fund of said department herein created ; and shall also be liable for injury to person or loss of life of any officer, agent, or employee of said board, in the same manner and like extent, and to be sued for in like manner as in the preceding part of this section provided for.

1871, ch. 742, §5.
Comp. 395.
Lights in theatres, stables, etc.

Fires in hotels, theatres, churches, manufactories, etc.

Firemen at places of amusements having scenery, etc.

1871, ch. 742, §2.
Comp. 391.
Gunpowder and explosive oils and compounds.

Storage.

Licenses for retailing gunpowder, etc.

§ 454. All lights used in theatres and all other places of public amusement, manufactories, stables, or in show windows, shall be properly protected by globes, glass coverings, or in such other manner as said board shall prescribe, under the penalty of ten dollars for each omission to do so. The proprietors of all manufactories, hotels, tenement houses, boarding and lodging houses, warehouses, stores and offices, theatres and music halls, and the authorities having charge of the public schools and other public buildings, churches and other places where large numbers of persons are congregated for purposes of worship, instruction or amusement, shall provide such means for communicating alarms and extinguishing fires, and communicating necessary information to the police, as said board and board of police shall prescribe. And said board of fire commissioners may detail, not to exceed two members of the fire department, at each and every place of amusement where machinery and scenery are used, while such place is open to the public, whose duty it shall be to guard against fire, and have charge and control of the means provided for its extinguishment, and shall have the control and direction of the employees of the place to which they may be detailed for the purpose of extinguishing any fire which may occur therein.

§ 455. No person shall manufacture, have, keep, sell, or give away any gunpowder, blasting powder, gun-cotton, nitro-glycerine, dualin, or any explosive oils or compounds, within the corporate limits of the city of New York, except in the quantities limited, in the manner, and upon the conditions herein provided, and under such regulations as the board of fire commissioners shall prescribe ; and said board shall make suitable provision for the storage and safe-keeping of gunpowder and other dangerous and explosive compounds or articles enumerated under this title, beyond the interior line of low water-mark in the city and county of New York. The said board may issue licenses to persons desiring to sell gunpowder or any of the articles mentioned under this section at retail, at a particular place in said city to be named in said license (provided that the same shall not be in a building used in any part thereof as a dwelling, unless specially authorized by said license), and persons so licensed may have on their premises, if actually kept for sale, a quan-

tity, not exceeding at any one time, of nitro-glycerine, five pounds ; of gun-cotton, five pounds ; of gunpowder, fourteen pounds ; blasting powder, twenty-five pounds ; and all of said articles shall be put up in tight metallic canisters, containing, or capable of containing, not more than one pound each ; and the persons so licensed shall place on some conspicuous part of the front of each of the stores or buildings in which they may be licensed to sell powder, or any of the articles named under this section, a sign, on which shall be distinctly printed, in characters legible to persons passing such stores or buildings, the words "licensed to sell gunpowder," or designating such other of the articles herein named as is there offered for sale ; and every barrel, cask, canister, bottle, can, vessel, box or parcel, in which the same is sold, or into which the same is delivered on being sold, shall be distinctly labeled with a printed sign or label, printed upon or firmly affixed thereto, describing the article contained therein, with the word "danger" distinctly painted below the same. No nitro-glycerine, dualin, or gunpowder shall be manufactured in said city, and no quantities of nitro-glycerine, dualin, or gunpowder greater than above provided shall be kept, carried, or conveyed within said city ; except that for the purposes of distribution to or delivery from stores and buildings in said city, a quantity not more than five quarter casks may be carried at any one time, during the daytime, for the purpose of transportation from any vessel, or sending the same to said stores or buildings, or any vessel or place without said city ; provided, that in the carrying or conveying the same it shall be protected by being completely and securely covered with a leather or canvas cover or case, and marked "gunpowder."

The commander, owner or owners of any ship or other vessel arriving in the harbor of New York, and having more than twenty-eight pounds of gunpowder, dualin, or nitro-glycerine on board, shall, within forty-eight hours after the arrival, and before such ship or vessel shall approach nearer than three hundred yards of any wharf, pier, or slip, to the southward of a line drawn through the centre of Seventy-third street, immediately give written notice to the said board of the fact that such powder or nitro-glycerine is on such vessel ; but it shall be lawful either to proceed with such ship or vessel to sea, within forty-eight hours after her arrival, or to tranship such gunpowder, dualin, or nitro-glycerine from one ship or vessel to another, for the purpose of immediate transportation, without landing the same ; provided, however, that the provisions of this section shall not apply to any vessel receiving gunpowder on freight on any one day, provided such vessel do not remain at any wharf of the said city, or be within three hundred yards thereof, after

Quantity.

How labeled.

Manufacture
of, prohibited
in city.Transportation
of.Notice of arriv-
als with gun-
powder, etc., on
board.

Seizure of gunpowder, etc., found in violation hereof.

sunset. All gunpowder, gun-cotton, blasting powder, dualin, nitro-glycerine, or other explosive compound, found in violation of this section, shall be forthwith seized and safely stored, and be sold, upon three days' notice to the owner or claimant; and the proceeds of such sale, after deducting all expenses, shall be forfeited and paid over to and for the use and benefit of the relief fund of the fire department in the city of New York. Nothing contained in this section shall be construed to apply to any ship or vessel of war in the service of the United States or of any foreign government, while lying distant three hundred yards or upwards from the wharves, piers, or slips of the said city.

Provision not to apply to vessels of war.

1871, ch. 742, § 3. Comp. 392.

Manufacture and keeping of fireworks, chemicals, etc. Permit therefor.

Keeping of fireworks, when authorized.

§ 456. No fireworks, detonating works, cartridges, powder train, percussion caps, collodion, nitrate of soda, nitrate of silver, ether, phosphorus, matches, or explosive compounds shall hereafter be manufactured, stored, or kept upon sale in the city, except at such places, in such manner, and in such quantities as shall be determined by the said board in the exercise of their discretion, under a permit by them granted therefor, and subject to be revoked at any time by said board. Fireworks, consisting of Chinese crackers, rockets, blue-lights, candles, colored pots, lance-wheels, and other works of brilliant-colored fires, may be kept upon sale intervening the tenth day of June and the tenth day of July in each year, by retail dealers, under such reasonable regulations as said board may prescribe, under a permit issued therefor; and no quantity of the following-named chemicals, acids and combustible materials greater than as hereinafter enumerated, shall be stored or kept in or upon any one building within the city, namely: sulphur, one thousand pounds; manufactured matches, five hundred pounds; saltpetre, nitrate of soda, five hundred pounds in the whole; nitrate of silver, collodion, ether, phosphorus, fifty pounds in the whole; cartridges, percussion caps, powder train, one hundred pounds in the whole; aqua fortis, muriatic acid, nitric acid and sulphuric acid, not exceeding one thousand pounds in the whole; tar, pitch, rosin, turpentine, one hundred barrels in the whole, except the same shall be stored and kept in such building and manner as said commissioners may require, under a special permit by them issued therefor.

Chemicals and acids.

Tar, pitch, turpentine, etc.

1871, ch. 742, § 4. Comp. 393. Crude petroleum and coal oils.

Warehouses for.

§ 457. No person shall have, keep upon sale, or store in any place or building within the corporate limits of the city, any crude petroleum, coal, or any similar oil, nor any of their products, either of which shall emit an inflammable vapor at a temperature below one hundred degrees of Fahrenheit, except under the following provisions: or any of their products may be stored in detached and properly ventilated warehouses, the outer

walls of which shall be stone, brick or iron, especially adapted for the purpose, by having raised sills, at least two feet high, or the ground floor of which shall be at least two feet below the level of street or adjoining yard, or so constructed as to actually prevent the overflow of such substances beyond the premises where the same may be kept or stored; which said warehouses shall not be occupied in any part as a dwelling; and if less than fifty feet from any adjacent dwelling the same must be separated by a brick or stone wall at least ten feet in height and sixteen inches thick, constructed in such manner as said commissioners may prescribe, but the same may be stored in such other manner as said commissioners may designate under a special permit issued therefor. No refined petroleum, kerosene, coal, or similar oil, or earth or rock oil, or machinery oil, or any product thereof to be used for illuminating or heating purposes which shall emit an inflammable vapor at a temperature below one hundred degrees Fahrenheit, shall be kept upon sale or stored within the corporate limits of the city. All said articles shall be tested and their quality, determined by sanitary surveyors authorized by said commissioners, using G. Tagliabue's instruments, or such other instruments as may be designated by said commissioners, the barrels or packages containing the same to be legibly stamped or marked with said inspector's official stamp or mark. No refined petroleum, kerosene, gasoline, naphtha, or benzine, benzole, camphene, or burning fluid, or products or compounds containing any of said substances, when temporarily placed above the cellar or basement of any building, and in barrels of not over forty-five gallons each, or in metallic vessels or tanks, shall exceed in the whole quantity the contents of fifty of said barrels, provided, however, that the whole quantity of said refined oils that may be so kept or stored over night shall not exceed the contents of ten of said barrels, unless stored in the manner provided for storing crude petroleum; and when stored in cellars or basements, surrounded by walls of brick or stone, and at least two feet below the level or grade of the sidewalk, street, or land adjacent, the whole quantity shall not exceed the contents of one hundred and fifty barrels, unless stored in warehouses specially adapted for that purpose, as required for the storage of crude petroleum under this section; provided, also, that no quantity of said oils greater than one barrel shall be stored or kept in any building occupied in any part thereof as a dwelling. No refined petroleum, kerosene, gasoline, naphtha, benzine, benzole, camphene, burning fluid, or products or compounds containing any of said substances, shall be kept or stored on or above the first story or floor of any building, exceeding in the whole quantity the contents of five barrels, of forty gallons each.

Petroleum,
kerosene, etc.
1886, ch. 873.
§51, Comp. 405.

How tested.

Number of barrels of, above cellar.

Storage in cellars.

Above first floor, limited.

In no case shall any of the articles named in this section be allowed to remain on the sidewalk beyond the front line of any building, or in or upon the streets, docks, piers, bulkheads, slips, highways, or public places a longer time than is actually necessary for the removal or loading of the same, and said commissioners may establish and enforce general regulations and issue such orders and special directions relative to the handling, lightering, carting, loading, unloading, and transportation of the several articles named under this section, as in their discretion shall be deemed necessary for the public protection, and said commissioners may issue special permits authorizing the keeping of any of the articles enumerated under this section in buildings, tanks, or structures fire-proof throughout, in such quantities, in such manner, and subject to such regulations as shall tend to secure the same against danger.

Carting, handling and transporting.

Permits for storage in fire-proof buildings, etc.

1871, ch. 742, §4.
Comp. 394.

Licenses.
1871, ch. 584, §1.
Comp. 417.

To be posted in store.

Penalty for selling without.

1871, ch. 742, §4.

Liability in action for damages.

§ 458. No person shall sell at retail, or give away, any kerosene or other product of petroleum, or any similar oil, to be used for heating or illuminating purposes, without first obtaining a license therefor from the said commissioners, to be issued with the consent of the mayor, under such rules and regulations as they may prescribe, which license shall be for the term of one year, and shall not be transferable; and for every such license, and for every renewal of the same, the said commissioners shall demand and receive the sum of ten dollars. Said license shall be posted in a conspicuous place in the store of the person or persons to whom the same is issued, and may be revoked for cause by said commissioners. Any person who shall sell any of the compounds above mentioned in this or the last section without first obtaining a license therefor, shall forfeit and pay the sum of twenty-five dollars.

§ 459. In case any person is burned by the explosion of any compound, the sale of which is prohibited by any section of this title, or has not been subjected to sanitary survey, or licensed as therein provided, and death ensues therefrom, the person found guilty of selling the same shall be deemed guilty of a felony, and, upon conviction, shall be punished by a fine of not less than one thousand dollars, nor more than five thousand dollars, or by imprisonment in the State prison for a term not less than one year nor more than five years; and in case of a bodily injury the party injured may maintain an action for damages against the party violating the provisions of this title. And any dealer who shall present and deliver for sanitary survey a sample of oil different from and which does not represent the quality of oil actually kept by him or her for sale, and not taken from the actual stock being offered for sale, and of the same quality therewith, shall forfeit and pay the additional sum of fifty dollars.

If any fire insurance company, organized under the laws of this State, or any insurance company of any other State, or any foreign insurance company authorized to do the business of insurance in this State, shall indorse upon any policy issued by them the right or privilege to keep, deal in, give away, sell, or use any article or compound of a combustible or explosive character, the sale of which is made unlawful by any act of the legislature of this State, or shall cause or permit such indorsement to be made by others upon their policies of insurance, they shall for each and every such offense forfeit and pay a fine of five hundred dollars.

Policies covering sale of prohibited compounds.

§ 460. It shall be unlawful for the owner, or for any of the officers, employees, or crew of any ship, vessel, canal boat, barge, lighter, boat or other craft lying at or within one hundred and fifty feet of any warehouse, yard, shed, dock, pier, bulkhead, wharf, or other place within the county of New York, at, in, or on which petroleum oil, or any of its products, is stored, or kept for export, or in quantities exceeding ten thousand gallons; or for any other person or persons to bring, keep, have, or use, or suffer or permit to be brought, kept, had or used on board of any such ship, vessel, canal boat, barge, lighter, boat, or other craft, or at, in, or on any such warehouse, shed, yard, dock, pier, bulkhead, wharf, or other place, any lighted match, or lighted cigar, cigarette, or pipe, or any fire or light of any kind, without, or otherwise than in strict conformity to the written permission of the owner, lessee, or superintendent of such warehouse, shed, yard, dock, pier, bulkhead, wharf, or other place, specifying the fire or light to be kept, had or used, the particular purpose for, and the place or spot at which the same may be so kept, had or used, and the particular manner of keeping, having or using the same. This section shall not apply to steam tugs while transacting their ordinary business, nor to steam fire engines engaged in extinguishing fires. Every violation of this section shall be a misdemeanor, triable before the court of special sessions.

1870, ch. 324, § 1.
Comp. 414.
Fire or light on vessels, etc., within 150 feet of places where petroleum is stored.

Exceptions.

Penalty.

§ 461. No quantity of the following named chemicals and combustible materials greater than is hereinafter enumerated shall be stored or kept in, or upon any one building within the city, namely: hemp or flax, unbaled, two thousand pounds in the whole; varnish, rosin, twenty barrels in the whole; alcohol, pure spirits, camphene, burning fluid, five barrels in the whole; unslacked lime, ten barrels; vitriol, five carboys in the whole; loose wood shavings, one hundred pounds; except the same shall be stored and kept upon an open space of ground, surrounded by a wall constructed entirely of fire-proof materials, at least twelve feet high and twelve inches thick; or within a fire-proof build-

1866, ch. 873.
§§ 55, 52, Comp. 406.
Regulations in regard to chemicals.

ing remote or distant at least fifty feet from any adjacent building.

1881, ch. 467, §1.
Storing of
more than
twenty tons
of hay, etc.,
prohibited,
except in fire-
proof buildings,
etc.

§ 462. No quantity of cotton, hay, straw, flax, hemp, husks, rushes, oakum, rags, sea-weed, jute or other vegetable fiber when pressed or baled, greater than twenty tons in the whole, shall be stored or kept in any building within the city of New York, unless kept in a building fire-proof throughout, or upon an open space of ground surrounded by a wall constructed entirely of fire-proof materials, at least twelve feet high and twelve inches thick, or within a fire-proof building remote or distant at least fifty feet from any adjacent building, or in a building approved by the New York board of underwriters or the commissioners of the fire department, and of which approval a certificate shall have been issued by either of said boards, and shall not have been revoked; and none of the articles enumerated in this section, when loose or not baled, shall be kept as aforesaid in quantity exceeding one thousand pounds in the whole; excepting in a private stable, in which may be kept such loose hay and straw in quantity not exceeding twenty-five hundred pounds in the whole. No person shall have, put or keep any hay or straw uncovered in any stack or pile, or in any other way exposed, within one hundred yards of any building in said city, or shall have, put or keep within said city any hay, straw, hemp, flax, shavings or rushes in any building not built of stone or brick or iron, or covered with tile or slate or other fire-proof material, which is or shall be within ten feet of any dwelling-house or chimney whatsoever.

Uncovered hay,
etc., keeping of

1871 ch. 742, §9.
Comp. 397.
Right to enter
stables, vessels,
etc.

§ 463. The commissioners and their officers or agents, under the direction of said commissioners or either of them, are hereby empowered at any and all times to enter into and examine all buildings, dwelling-houses, livery and other stables, hay-boats, or vessels, and places where any merchandise, gunpowder, hemp, flax, tow, hay, rushes, firewood, boards, shingles, shavings, or other combustible materials may be lodged for the purpose of ascertaining all violations of any of the provisions of this title, and also the places where ashes may be deposited, and upon finding that any of them are defective or dangerous, or that a violation of this title exists therein, may deliver a written or printed notice, containing an extract from this title, of the provisions in reference thereto, and notice of any violation thereof, and notice to remove, amend or secure the same within a period to be fixed therein. And in case of neglect or refusal on the part of such occupant or of the possessor of such combustible materials, or any of them, so to remove, amend or secure the same within the time and in the manner directed by the said commissioners in such notice, the party offending shall forfeit

Deposit of
ashes.

1866, ch. 873, §57.
Comp. 407.
Notice to re-
move or secure
combustible
materials

and pay, in addition to any penalty otherwise imposed, the sum of twenty-five dollars, and the further sum of five dollars for every day's neglect to remove, amend or secure the same after being so notified. All the expenses of any removal, alteration or amendment as aforesaid, shall be paid in the first instance by the occupant, but shall be chargeable against the owner of such dwelling-house or other building, and shall be deducted from the rent of the same unless such expense be rendered necessary by the act or default of such occupant, or unless there be a special agreement to the contrary between the parties.

1886, ch. 873, §57.
Comp. 407.
Collection of
expense of
removal.

§ 464. All persons or corporations who shall be required to have and obtain permits shall furnish such information as may be required, touching the condition of any building and the business therein proposed to be conducted, preliminary to obtaining such permits.

1871, ch. 742, §9.
Comp. 397.

§ 465. Any person, persons, or corporation, for the violation of, or non-compliance with, any of the several provisions of the several sections of this title, when the penalty is not therein specially provided, shall severally forfeit and pay a fine or penalty in the sum of fifty dollars for each and every offense, or shall forfeit and pay the penalties respectively imposed under any of said sections, and shall also be severally liable for the removal, amendment, or abatement of any violation of, or non-compliance with, any requirement under said sections, and shall also be severally liable for the payment of the further penalty of the sum of fifty dollars for any violation of, or non-compliance with, any regulation, order or special direction issued by said commissioners, as authorized under this chapter. Said commissioners may, in their discretion, pay a portion of a fine, or penalty, when collected, not to exceed one-half thereof, to an informer.

1871, ch. 742, §11.
Comp. 399.
Non-enumerat-
ed fines and
penalties.

Part may be
paid to
informer.

Title 4.—Fire Marshal and Investigation of Origin of Fires.

§ 466. Said board of fire commissioners are hereby authorized and empowered to investigate, examine, and inquire into the origin, details, and management of fires in said city, and also of any supposed cases of violations of any of the provisions of this chapter, or of any of the several regulations, orders, or special directions issued by said board for the purpose of the discovery of any delinquency in the non-performance of duty or violation of discipline on the part of any officer, agent, or employee of said board, or any supposed cases of arson or incendiarism, which may be brought to their notice; and said board, in and about any examination, investigation or inquiry, authorized hereby, touching any matter or thing therewith connected, may subpoena and compel the attendance of any person or persons,

1871, ch. 742,
§10, Comp. 398.
Investigations
as to fires and
violations of
regulations.
73 N. Y. 437.

Witnesses,
books and
papers.

and the production of any books, papers, archives, or documents in his or their possession, or under his or their control, in the judgment of said board, connected with and necessary to such examination, investigation, or inquiry, before them, at the time and place therein named; and for the purpose aforesaid, their attorney may at any time obtain to be issued subpoenas out of the supreme court, tested under the name of a justice of said court, in like form and with like effect as though issued by said justice in any action pending in a court of record; and said subpoena may be served, and proof of such service may be made, in the same manner as now by law provided for the service of subpoenas out of the said court; and upon proof of service and proof of non-compliance, failure to attend and testify on the part of any person or persons, as required by said subpoena, or a failure or refusal on the part of any person or persons to produce any such books, papers, archives, or documents in his or their possession, or under his or their control, or a failure or refusal on his or their part to answer any question put to him or them, and pertinent thereto, upon any examination, inquiry or investigation as aforesaid, application may be made before any justice of said court, who shall, in case he shall decide such question pertinent and proper to be answered, thereupon cause to be arrested, and may punish as for a contempt of the orders of said court, the person or persons named in said subpoena, and in such case the laws, rules, and proceedings relating to punishments for contempts, and usual in said court, or before any justice thereof, shall be applicable thereto. Said commissioners, in conducting any examination or inquiry as aforesaid, are hereby authorized to administer any oath or affirmation in the matter, and any false swearing under said oath or affirmation thus administered shall be perjury, and punishable as such in such manner as now provided under the laws applicable thereto; and said examination or investigation may be continued and adjourned by the said commissioners conducting the same, from time to time, and at such time and place as shall be designated, and any person subpoenaed as aforesaid shall attend and testify upon said adjourned day or days, and at the time and place designated, and of which they shall have been notified, as though the same had been named in said subpoena, and with like effect as to any failure to appear and answer under the requirements therein contained; provided, that any testimony or evidence taken as aforesaid shall be for the information and instruction of said board in the discharge of their duties, and in the prevention of future fires, and the protection of property, and shall be carefully kept in the archives and possession of said board, and shall in no manner be used in any criminal proceeding or action, but

Subpoenas.

Penalty.

Oaths.

Testimony.

To be kept.

may be placed before any grand jury in said city or county of New York.

§ 467. It shall be the duty of the fire marshal, or his officers and agents, when authorized by him in writing so to do, to enter into any building or premises within said city for the purpose of examining, or causing to be examined, the stoves and pipes thereto, ranges, furnaces, and heating apparatus of every kind whatsoever, including the chimneys, flues, and pipes with which the same may be connected, engine rooms, boilers, ovens, kettles, and also all chemical apparatus, or other things which in his opinion may be dangerous in causing or promoting fires; or dangerous to the firemen or occupants in case of fire; and upon finding any of them defective or dangerous, or in any manner exposed or liable to fire from any cause, he shall report the same to the board, who may thereupon issue orders or special directions, either printed or written, directing the owner or occupant to alter, remove, or remedy the same in such manner and within such reasonable time as may be necessary, and in respect thereto may authorize and direct the use of such materials and appliances as shall be deemed proper and necessary; and in case of neglect or refusal so to do within the time prescribed by such orders or directions, the fire marshal, under the direction of said board shall cause such alteration, removal, or other necessary act or work to be done, and the expense thereof shall be charged to the party so offending, to be sued for and recovered in the manner herein provided for the recovery of fines and penalties under this chapter.

1871, ch. 584, § 3.
Comp. 418.
Fire marshal
may enter
buildings, etc.

To report de-
fects to police
department.
See 1873, ch. 335,
§ 76.
Fire marshal to
make altera-
tion, etc., if
owners neglect.

§ 468. It shall be the duty of the fire marshal to examine into the cause, circumstances and origin of fires occurring in said city, by which any building, vessels, vehicles, or any valuable personal property shall be accidentally or unlawfully burned, destroyed, lost, or damaged, wholly or partially; and to especially inquire and examine whether the fire was the result of carelessness or the act of an incendiary. The fire marshal shall take the testimony, on oath, of all persons supposed to be cognizant of any fact, or to have means of knowledge in relation to the matters herein required to be examined and inquired into, and cause the same to be reduced to writing, verified and transmitted to the board with his report in writing, embodying his opinion and conclusions in relation to the matter investigated. The fire marshal shall report in writing to the fire department, to the board of police, to the district attorney, to the New York board of fire underwriters, to the owners of property, or other persons interested in the subject-matter of investigation, any facts and circumstances which he may have ascertained by such inquiries and investigations which shall, in his

1868, ch. 563, § 2,
Comp. 415.
Fire marshal to
inquire into
causes of fires.

May take testi-
mony and sub-
mit reports in
writing.

To whom re-
ports to be
made.

May arrest persons in cases of suspected arson.

opinion, require attention from or by either of said boards, officers or persons; and it shall be the duty of the fire marshal whenever he shall be of opinion that there is evidence sufficient to charge any person with the crime of arson, to cause such person to be arrested and charged with such offense, and furnish to the district attorney all the evidences of guilt, with the names of witnesses, and all the information obtained by him, including a copy of all pertinent and material testimony taken in the case; and he shall specially report to the board, as often as such board shall require, his proceedings, and the progress made in all prosecutions for arson, and the result of all cases which are finally disposed of.

1868, ch. 568, §3, Comp. 416
May compel attendance of witnesses.

§ 469. The fire marshal shall have power to issue a notice, in the nature of a subpoena, in such form and subscribed in such manner, as the board of fire commissioners shall prescribe, to compel the attendance of any person as a witness before him, to testify in relation to any matter which is, by the provisions of this title, a subject of inquiry and investigation by the said marshal. The said marshal shall be, and is hereby authorized to administer and verify oaths and affirmations to persons appearing as witnesses before him; and false swearing in any matter or proceeding aforesaid, shall be deemed perjury, and shall be punishable as such. Upon the presentation of satisfactory proof of due service of any such notice, in the nature of a subpoena, upon any such witness, and of a failure by such witness to obey the same, it shall be the duty of the board of fire commissioners to make an order that the said witness be arrested and brought before the said marshal, to testify what such witness may know in relation to the subject-matter of inquiry. Such order may be executed by any member of the police force, by arresting and bringing such witness before the said marshal, but such witness shall not be detained longer than is necessary to take such testimony. The fire marshal shall have authority at all times of the day or night, in performance of the duties imposed by the provisions of this title, to enter upon and examine any building or premises, when any fire shall have occurred, and the buildings and premises adjoining and near to that in which the fire occurred.

Order to arrest witnesses refusing to answer subpoenas.

Marshal may enter and examine buildings.

Id. §6, Comp. 417.
Fire commissioners may supervise investigations by marshal.
See 1873, ch. 335, §76.

§ 470. It shall be the duty of the board of fire commissioners to supervise and direct, whenever they shall be of opinion that the public interest will be subserved thereby, the investigations, examinations and proceedings of said marshal, and make all needful and proper rules and regulations in relation to the duties of the office, and the manner of performing the same.

Title 5.—Construction of Buildings.

§ 471. No wall, structure, building, part or parts thereof, shall hereafter be built, constructed, altered, or repaired in said city, except in conformity with the provisions of this title. 1871, ch. 623, §1. Comp. 526. Building limits of New York city.

§ 472. All buildings hereafter erected within said city, other than frame or wooden buildings, shall have all walls, whether the same be outside or party walls, constructed of stone, brick, or iron, properly bonded and solidly put together, and all such walls shall be built to a line, and be carried up plumb and straight, with close joints; and the several component parts of such buildings shall be built and constructed in such manner as herein provided. 11 Hun, 439. Id. §2.

§ 473. All foundation walls shall be laid not less than four feet below the surface of the earth, on a good, solid bottom, and in case the nature of the earth should require it, a bottom of driven piles, or laid timber of sufficient size and thickness, shall be laid to prevent the walls from settling, the top of such pile or timber bottom to be driven or laid below the water line; and all piers, columns, posts or pillars resting on the earth, shall be set upon a bottom in the same manner as the foundation walls. Whenever in any case the foundation wall or walls of any building that may hereafter be erected, shall be placed on a rock bottom, the said rock shall be graded off level to receive the same. All excavations upon the front or side of any lot adjoining a street shall be properly guarded and protected by the person or persons having charge of the same, so as to prevent the same from being or becoming dangerous to life or limb; whenever there shall be any excavation, either of earth or rock, upon any lot or piece of land in the city of New York, and there shall be any party or other wall wholly or partly on adjoining land and standing upon or near the boundary line of said lot, if the person or persons whose duty it shall be, under existing laws, to preserve and protect said wall from injury, shall neglect or fail so to do, after having had a notice of twenty-four hours from the fire department so to do, the said department may enter upon the premises, and employ such labor and take such steps as in its judgment may be necessary to make the same safe and secure, or to prevent the same from becoming unsafe or dangerous, at the expense of the person or persons owning said wall or building of which it may be a part, and any person or persons doing the said work, or any part thereof, under and by direction of the said department, may bring and maintain an action against the owner or owners, or any one of them, of the said wall or building of which it may be a part, for any work done or materials furnished in and about the said premises, in the Id. §3. Foundation walls. Walls on rock bottom. Excavations. Protection of party wall

same manner as if he had been employed to do the said work by the said owner or owners of the said premises.

1855, ch. 6, §1.
Comp. 552.

Compensation.
4 Abb. (N.C.)
292; 55 N.Y. 280;
72 Id. 307.

§ 474. Whenever excavations, for building or other purposes, on any lot or piece of land in the city and county of New York, shall be intended to be carried to the depth of more than ten feet below the curb, and there shall be any party or other wall, wholly or partly on adjoining land and standing upon or near the boundary lines of such lot, the person causing such excavations to be made, if afforded the necessary license to enter on the adjoining land, and not otherwise, shall at all times from the commencement until the completion of such excavations, at his own expense, preserve such wall from injury, and so support the same by a proper foundation that it shall remain as stable as before the excavations were commenced.

1871, ch. 625, §1.
Comp. 527.

Base course or
footing.

How built.

Foundation
walls

Id. §5,
as amended
1874, ch. 547, §1.
Thickness of
walls for dwell-
ing-houses.

§ 475. The footing or base course under all foundation walls and under all piers, columns, posts or pillars resting on the earth, shall be of stone or concrete, and if under a foundation wall, shall be at least twelve inches wider than the bottom width of the said wall; and if under piers, columns, posts or pillars, shall be at least twelve inches wider on all sides than the bottom width of the said piers, columns, posts or pillars and not less than eighteen inches in thickness; and if built of stone the stones thereof shall be not less than two by three feet, and at least eight inches in thickness; and all base stones shall be well bedded and laid edge to edge; and if the walls be built of isolated piers, then there must be inverted arches, at least twelve inches thick, turned under and between the piers, or two footing courses of large stone, at least ten inches thick in each course. All foundation walls shall be built of stone or brick and shall be laid in cement mortar, and, if constructed of stone, shall be at least eight inches thicker than the wall next above them to a depth of sixteen feet below the curb level, and shall be increased four inches in thickness for every additional five feet in depth below the said sixteen feet; and if built of brick, shall be at least four inches thicker than the wall next above them to a depth of sixteen feet below the curb level, and shall be increased four inches in thickness for every additional five feet in depth below the said sixteen feet.

§ 476. In all dwelling-houses that may hereafter be erected not more than fifty-five feet in height, the walls shall not be less than twelve inches thick, and if above fifty-five feet in height and not more than eighty feet in height, the outside walls shall not be less than sixteen inches thick to the top of second story floor beams, provided the same is twenty feet above the curb level, and if not, then to the under side of the third story beams, and also provided that portion of the wall that is twelve

inches thick shall not exceed forty feet above the said sixteen-inch wall; and in every dwelling-house hereafter erected more than eighty feet in height, four inches shall be added to the thickness of the wall for every fifteen feet or part thereof that is added to the height of the building. All party walls in dwellings over fifty-five feet in height shall not be less than sixteen inches in thickness.

Party walls.

§ 477. In all buildings other than dwellings hereafter erected, the bearing walls shall not be less than twelve inches thick to the height of forty feet above the curb level; if forty feet in height and not more than fifty-five feet in height, the bearing walls shall not be less than sixteen inches thick; if above fifty-five feet and not more than seventy feet in height, the bearing walls shall not be less than twenty inches thick, to the height of twenty feet above the curb level or to the next tier of floor beams above, and not less than sixteen inches from thence to the height of fifty-five feet above the curb level or to the next tier of floor beams, and not less than twelve inches thick from thence to the top; and if above seventy feet and not more than eighty-five feet in height, the bearing walls shall not be less than twenty-four inches thick to the height of twelve feet above the curb level or the second story floor beams, and from thence to the height of sixty feet above the curb level, the said walls shall not be less than twenty inches thick, and from thence to the top not less than sixteen inches thick; and if above the height of eighty-five feet, the bearing walls shall be increased four inches in thickness for every fifteen feet, or part thereof, that shall be added to the height of said wall above the eighty-five feet. In all buildings over twenty-five feet in width, and not having either brick partition walls or girders supported by columns running from front to rear, the walls shall be increased an additional four inches in thickness, to the same relative thickness in height as required under this section for every additional ten feet in width of said building, or any portion thereof. It is understood that the amount of materials specified may be used either in piers or buttresses, provided the outside walls between the same shall in no case be less than twelve inches in thickness to the height of forty feet, and if over that height, then sixteen inches thick; but in no case shall a party wall between the piers or buttresses of a building be less than sixteen inches in thickness. In all buildings hereafter erected, situated on the street corner, the bearing wall thereof (that is, the wall on the street upon which the beams rest) shall be four inches thicker in all cases than is otherwise provided for in this title. All walls other than bearing walls may be four inches less in thickness than required in the clauses and provisions of

Id. §6,
as amended
1874, ch. 347, §2.

Bearing walls
in buildings.

Buildings on
street corner.

this section above set forth, provided no wall is less than twelve inches in thickness.

1871, ch. 625, §7,
as amended
1874, ch. 547, §3,
Comp. 528.

Partition walls
and girders.

§ 478. Every building hereafter erected, more than thirty feet in width, except churches, theatres, school-houses, car stables and other public buildings, shall have one or more stone or brick partition walls running from front to rear, or iron or wooden girders supported on iron or wooden columns; these walls shall be so located that the space between any two of the bearing walls shall not be over twenty-five feet. In case iron or wooden girders supported on iron or wooden columns are substituted in place of the partition walls the building may be seventy-five feet in width, but not more; and if there should be substituted iron or wooden girders supported on iron or wooden columns, in place of partition walls, they shall be made of sufficient strength to bear safely the weight of two hundred and fifty pounds for every square foot of the floor or floors that rest upon them, exclusive of the weight of material employed in their construction, and shall have a footing course and foundation wall not less than sixteen inches in thickness with inverted arches under and between the columns, or two footing courses of large, well shaped stone, laid crosswise, edge to edge, and at least ten inches thick in each course, the lower footing course to be not less than two feet greater in area than the size of the column; and under every column, as above set forth, a cap of cut granite at least twelve inches thick and of a diameter twelve inches greater each way than that of the column, and must be laid solid and level to receive the column. Any building that may hereafter be erected in an isolated position, and more than one hundred feet in depth, and which shall not be provided with cross walls, shall be securely braced, both inside and out, during the whole time of its erection, if it can be done; but in case the same cannot be so braced from the outside, then it shall be properly braced from the inside, and the braces shall be continued from the foundation upward to at least one-third the height of the building from the curb level.

Isolated
buildings.

1871, ch. 625, §8,
Comp. 529.

Altering walls
of buildings,
temporary sup-
ports.

§ 479. No wall of any building now erected, or hereafter to be built or erected, shall be cut off or altered below, without permission so to do having been first obtained from the fire department. Every temporary support placed under any structure, wall, girder or beam during the erection, finishing, alteration or repairing of any building, or part thereof, shall be equal in strength to the permanent support required for such structure, wall, girder, or beam. And the walls of every building shall be strongly braced from the beams of each story until the building is topped out, and the roof tier of beams shall be strongly braced to the beams of the story below, until all the floors in the said building are laid.

Braces.

§ 480. All stone walls less than twenty-four inches thick shall have at least one header, extending through the walls in every three feet in height from the bottom of the wall, and in every four feet in length; and if over twenty-four inches in thickness, shall have one header for every six superficial feet on both sides of the wall, and running into the wall at least two feet; all headers shall be at least eighteen inches in width and eight inches in thickness, and shall consist of a good flat stone, dressed on all sides. In every brick wall every sixth course of brick shall be a heading course, except where walls are faced with brick, in which case every fifth course shall be bonded into the backing by cutting the course of the faced brick and putting in diagonal headers behind the same, or by splitting face brick in half and backing the same by a continuous row of headers. In all walls which are faced with thin ashlar, anchored to the backing, or in which the ashlar has not either alternate headers and stretchers in each course, or alternate heading and stretching courses, the backing of brick shall not be less than twelve inches thick, and all twelve inch backing shall be laid up in cement mortar, and shall not be built to a greater height than prescribed for twelve inch walls. All heading courses shall be good, hard, perfect brick. The backing in all walls, of whatever material it may be composed, shall be of such thickness as to make the walls, independent of the facing, conform as to thickness with the requirements of sections four hundred and seventy-six and four hundred and seventy-seven of this act.

Id. §9.

Headers
through stone
walls.Heading
courses of
brick wall.Backing of
walls faced
with ashlar.Material of
heading
courses
and backing.

§ 481. Every isolated pier less than ten superficial feet at the base, and all piers supporting a wall built of rubble stone or brick, or under any iron beam or arch girder, or arch on which a wall rests, or lintel supporting a wall, shall, at intervals of not less than thirty inches in height, have built into it a bond stone not less than four inches thick, of a diameter each way equal to the diameter of the pier, except that in piers on the street front above the curb, the bond stone may be four inches less than the pier in diameter; and all piers shall be built of good, hard, well-burnt brick and laid in cement mortar, and all bricks used in piers shall be of the hardest quality, and be well wet when laid; and the walls and piers, under all compound, cast-iron, or wooden girders, iron or other columns, shall have a bond stone at least four inches in thickness, and if in a wall at least two feet in length, running through the wall, and if in a pier, the full size of the thickness thereof, every thirty inches in height from the bottom, whether said pier is in the wall or not, and shall have a cap stone of cut granite, at least twelve inches in thickness, by the whole size of the pier, if in a pier, and if in a wall, it shall be at least two feet in length, by the thickness of

Id. §10,
Comp. §30.Isolated and
other piers,
how built.

Setting of columns.	the wall, and at least twelve inches in thickness. In any case where any iron or other column rests on any wall or pier built entirely of stone or brick, the said column shall be set on a base stone of cut granite, not less than eight inches in thickness by the full size of the bearing of the pier, if on a pier, and if on a wall the full thickness of the wall. In all buildings where the walls are built hollow, the same amount of stone or brick shall be used in their construction as if they were solid, as above set forth; and no hollow walls shall be built unless the two walls forming the same shall be connected by continuous vertical ties of the same material as the walls, and not over twenty-four inches apart. The height of all walls shall be computed from the curb level. No swelled or refuse bricks shall be allowed in any wall or pier; and all brick used in the construction, alteration, or repair of any building or part thereof, shall be good, hard, well-burnt brick; and if used during the months from April to November, inclusive, shall be well wet at the time they are laid.
Hollow walls, how built.	
Height of walls, how computed. Quality of brick.	
1871, ch. 625, §1. Comp. 590. Mortar, how composed.	§ 482. The mortar used in the construction, alteration, or repair of any building shall be composed of lime or cement, mixed with sand, in the proportion of three of sand to one of lime, and two of sand to one of cement, and no lime and sand mortar shall be used within twenty-four hours after being mixed; and all walls or parts thereof, below the curb level, shall be laid in cement mortar, to be composed of cement and mortar, in the proportion of one of cement to two of mortar. No inferior lime or cement shall be used; and all sand shall be clean, sharp grit, free from loam, and all joints and all walls shall be well filled with mortar.
Id. §12. Comp. 591. Side, end or party walls.	§ 483. In no case shall the side, end, or party wall of any building be carried up more than two stories in advance of the front and rear walls. The front, rear, side, end, and party walls of any building hereafter to be erected shall be anchored to each other every six feet in their height by tie anchors, made of one and a quarter inch by three-eighths of an inch wrought iron. The said anchors shall be built into the side or party walls not less than sixteen inches, and into the front and rear walls at least one-half the thickness of the front and rear walls, so as to secure the front and rear walls to the side, end, or party walls; and all stone used for the facing of any building, except where built with alternate headers and stretchers, as hereinbefore set forth, shall be strongly anchored with iron anchors in each stone, and all such anchors shall be let into the stone at least one inch. The side, end, or party walls shall be anchored at each tier of beams, at intervals of not more than eight feet apart, with good, strong, wrought iron anchors, one-half inch
Anchors, how built.	
Walls, how anchored at each tier of beams.	

by one inch, well built into the side walls and well fastened to the side of the beams by two nails made of wrought iron, at least one-fourth of an inch in diameter; and where the beams are supported by girders the ends of the beams resting on the girder shall be butted together, end to end, and strapped by wrought iron straps of the same size and at the same distance apart and in the same beam as the wall anchors, and shall be well fastened.

Beams resting
on girders.

§ 484. All walls of any buildings over fifteen feet high shall be built up and extend at least twenty-four inches above the roof and shall be coped with stone or iron. If a mansard roof shall be placed upon any building, except a wooden building over three stories in height, exclusive of the said roof, the same shall be constructed fire-proof.

1871, ch. 625, §13.
as amended
1874, ch. 547, §4.
Comp. 531.
Coping and
mansard roof.

§ 485. All iron beams or girders used to span openings over six feet in width, and not more than twelve feet in width, upon which a wall rests, shall have a bearing of at least twelve inches at each end by the thickness of the wall to be supported, and for every additional foot of span over and above the said twelve feet, if the supports are iron or solid cut stone, the bearing shall be increased half an inch at each end; but if supported on the ends by walls or piers built of brick or stone, if the opening is over twelve feet and not more than eighteen feet, the bearing shall be increased four inches at each end, by the thickness of the wall to be supported; and if the space is over eighteen feet and not more than twenty-five feet, then the bearing shall be at least twenty inches at each end by the thickness of the wall to be supported; and for every additional five feet or part thereof that the space shall be increased, the bearing shall be increased an additional four inches at each end by the thickness of the wall to be supported. And on the front of any building where the supports are of iron or solid cut stone, they shall be at least sixteen inches on the face and the width of the thickness of the wall to be supported, and shall, when supported at the ends by brick walls or piers, rest upon a cut granite base block, at least twelve inches thick, by the full size of the bearing; and in case the opening is less than twelve feet, the granite block may be six inches in thickness, by the whole size of the bearing; and all iron beams or girders used in any building shall be, throughout, of a thickness not less than the thickness of the wall to be supported. All iron beams or girders used to span openings more than eight feet in width, and upon which a wall rests, shall have wrought iron tie-rods of sufficient strength, well fastened at each end of the beam or girder, and shall have cast-iron shoes on the upper side, to answer for the skew-back of a brick or cut-stone arch, which said arch shall always be turned over the same,

Id. §14.
Bearing of iron
beams or
girders.

Thickness of
beams or
girders.

Arches over openings.	and the arch shall in no case be less than twelve inches in height, by the width of the wall to be supported, and the shoes shall be made strong enough to resist the pressure of the arch in all cases. Cut-stone or hard-brick arches, with two wrought iron tie-rods of sufficient strength, may be turned over any opening less than thirty feet, provided they have skew-backs of cut-stone or cast or wrought iron, with which the bars or tension-rods shall be properly secured by heavy wrought iron washers, necks, and heads of wrought iron, properly secured to the skew-backs. The above clause is intended to meet cases where the arch has not abutments of sufficient size to resist its thrust. All lintels hereafter placed over openings in the front, rear or side of a building, or returned over a corner opening, when supported by brick piers or iron or stone columns, shall be of iron, and of the full breadth of the wall to be supported, and shall have a brick arch of sufficient thickness, with skew-backs and tie-rods of sufficient strength to support the superincumbent lateral weight, independent of the cast-iron lintel. In all buildings hereafter to be erected or altered, where any iron column or columns are used to support a wall or part thereof, whether the same be an exterior or interior wall, except a wall fronting on a street, the said column or columns shall be constructed as follows: There shall be a double column, that is, an outer and inner column, and the inner column shall be of sufficient strength to sustain safely the weight to be imposed upon both the outer and inner column; and the outer column shall be made of sufficient size to allow a space of at least one inch between it and the inner column, which space shall be solidly filled with plaster of Paris, or some other non-conducting material; and all iron beams, girders, lintels, or columns, before the same are used in any building, shall have the maximum weight which they will safely sustain stamped, cast or properly marked in a conspicuous place thereon by the founder or manufacturer of the same, and shall be made of the best materials and in the best manner.
Lintels to be of iron.	
Columns for supports.	
Weight of, to be sustained by girders, lintels, etc.	
1871, ch. 625, §15, Comp. 533.	§ 486. All openings for doors and windows in all buildings, except as otherwise provided, shall have a good and sufficient arch of stone or brick, well built and keyed, and with good and sufficient abutments, or a lintel of stone or iron, as follows: For an opening not more than four feet in width, the lintel shall not be less than eight inches in height; and for an opening not more than six feet in width, the lintel shall not be less than twelve inches in height; and for an opening exceeding six feet in width and not more than eight feet in width, the lintel shall be of iron or stone, and of the full thickness of the wall to be supported; and every such opening six feet or less in width in all walls shall be at least one-third the thickness of the walls on which it rests,
Openings for doors and windows.	

and shall have a bearing at each end not less than four inches on the walls; and on the inside of all openings in which the lintel shall be less than the thickness of the wall to be supported, there shall a good timber lintel on the inside of the other lintels, which shall rest at each end not more than four inches on any wall, and shall be chamfered at each end, and shall have a double rolock arch turned over said timber lintel; arches built of stone or brick may be turned over openings on a centre, which may be struck after the arch is turned, provided the arch has a good and sufficient rise, and that the piers or abutments are of sufficient strength to bear the thrust of the arch; and all arches over openings or fire-places shall be built of good, hard brick, laid close joints, and well keyed.

Arches over openings.

§ 487. All the stores or storehouses, or other buildings which are more than two stories or above twenty-five feet in height above the curb level, already erected, or that may hereafter be built in said city, except dwelling-houses or churches, shall have doors, blinds, or shutters made of fire-proof metal, on every window and opening above the first story. When in any such building the shutters, blinds or doors cannot be put on the outside of such door or window, they shall be put on the inside, and if placed on the inside shall be hung upon an iron frame independent of the wood-work of the window frame or door; and every such door, blind, or shutter shall be closed upon the completion of the business of each day by the occupant having the use or control of the same; and all fire-proof shutters or blinds that now are or may hereafter be put upon the front or sides of any building on the street fronts, must be so constructed that they can be closed and opened from the outside above the first story. In any store or building in the city of New York in which there shall exist or be placed any hoistway, elevator, or well-hole, the openings thereof through and upon each floor of said building shall be provided with and protected by a substantial railing and such good and sufficient trap-doors with which to close the same as may be directed and approved by the fire department; and such trap-door shall be kept closed at all times except when in actual use by the occupant or occupants of the building having the use and control of the same; and all openings in any such buildings above the first story which may open upon a street, and all openings in buildings used or occupied for school-houses or offices exclusively, may be exempted from the provisions and requirements of this section in the manner as hereinafter provided.

Id. § 16, as amended 1874, ch. 547, § 5. Fire-proof doors, blinds, etc.

Hoistways.

§ 488. All chimneys and all flues in stone or brick walls in any building hereafter erected, altered or repaired, without reference to the purpose for which they may be used, shall have

1871, ch. 623, § 17, as amended 1874, ch. 547, § 6, Comp. 531.

Chimneys,
flues, etc.

Steam pipes.

the joints struck smooth on the inside, and no paring mortar shall be used on the inside; and the fire backs of all chimneys hereafter erected shall not be less than eight inches in thickness. And no tin or other metal flue or flues, pipe or pipes, or register box or boxes, of a single thickness of metal, used or intended to be used to convey heated air in any building hereafter built, altered, or repaired in any part of said city, shall be allowed unless the same shall be built in a wall of brick or stone; in all other cases the said flue or flues, pipe or pipes, register box or boxes, shall be made double; that is, two pipes, one inside the other, at least one-half inch apart, and the space between the pipes shall be filled with plaster of Paris; and no wooden furring or lath shall be placed against any flue, metal pipe or pipes used to convey heated air or steam in any building; and when any wall shall hereafter be furred or lathed with wood, the space between the lathing and wall shall be filled with plaster between the top and under side of the floor beams of each story, so as to prevent fire from extending from one floor to another. And no air flue shall be used at any time as a smoke flue. No steam pipe shall be placed within two inches of any timber or woodwork as aforesaid; when the said space of two inches around the steam pipe is objectionable, it shall be protected by a soapstone or an earthen ring or tube. No base or flooring or roofing, or any other woodwork shall be placed against any brick or other flue until the same shall be well plastered with plaster of Paris behind such woodwork. All flues in any building shall be properly cleaned and all rubbish removed, and the flues left smooth on the inside upon the completion of all such buildings as aforesaid. No chimney shall be started or built upon any floor or beam, and in no case shall the breast of a chimney project more than eight inches from the wall. All chimneys which are corbled out from the walls, as above described, shall be supported by five courses of brick; but if supported by piers, the said piers shall start from the foundation on the same line with the chimney breast, and shall not be less than sixteen inches on the face. All hearths shall be supported by arches of stone or brick, and no chimney in buildings already erected or hereafter to be built, shall be cut off below in whole or in part and supported by wood, but shall be wholly supported by stone, brick or iron, and all chimneys in any building or buildings as aforesaid, already erected or hereafter to be erected or built, or any other chimney or chimneys in any part of the said city, which shall be dangerous in any manner whatsoever, shall be repaired and made safe or taken down. And the flues of all furnaces and boilers shall be constructed in such manner as the fire department shall direct.

§ 489. No smoke-pipe in any building with wooden or combustible floors and ceilings shall hereafter enter any flue, unless the said pipe shall be at least eighteen inches from either the floors or ceilings; and in all cases where smoke-pipes pass through stud or wooden partitions of any kind, whether the same be plastered or not, they shall be guarded by either a double collar of metal, with at least four inches air space and holes for ventilation, or by a soapstone ring, not less than three inches in thickness, and extending through the partition, or by a solid coating of plaster of Paris, three inches thick, or by an earthenware ring, three inches from the pipe. In all cases where hot water, steam, hot-air, or other furnaces are used, the furnace smoke-pipe must be kept at least two feet below the beams or ceilings above the same, unless said beams or ceilings shall be properly protected by a shield or tin plate suspended above said smoke-pipe, with sufficient space for the free circulation of air above and below said shield; and the smoke-pipe shall, in all cases, be kept at least eight inches from the beams or ceilings, as aforesaid, and the top of all furnaces set in brick must be covered with brick, slate, or tin plate, supported by iron bars, and so constructed as to be perfectly tight; said covering to be in addition to and not less than six inches from the ordinary covering to the hot-air chamber. If, however, there is not height enough to build the furnace top at least four inches below the floor beams or ceilings, then the floor beams must be trimmed around the furnace, and said covering and the trimmers and headers must be at least four inches from the same. The top of every portable furnace not set in brick shall be kept at least one foot below the beams or ceilings with a shield of tin plate, made tight, and suspended below the said beams or ceiling, and extended one foot beyond the top of the furnace on all sides. All hot-air registers hereafter placed in the floor of any building shall be set in soapstone borders not less than two inches in width. All soapstone borders to be firmly set in plaster of Paris, or gauged mortar. All floor register boxes to be made of tin plate, with a flange on the top, to fit the groove in the soapstone, the register to rest upon the same. There shall also be an open space of two inches on all sides of the register-box, extending from the under side of the ceiling, below the register, to the soapstone in the floor; the outside of said space to be covered with a casing of tin plate, made tight on all sides, to extend from the under side of the aforesaid ceiling up to and turn under the said soapstone. Registers twelve by nineteen inches, or less than fifteen by twenty-five inches, shall have a space of three inches between the register-box and casing; registers of fifteen by twenty-five inches and more shall have a

1871, ch. 625, § 18.
Comp. 535.
Smoke pipes
through
wooden
partitions.

Pipes of steam
or hot air
furnaces.

Top of furnaces
set in brick.

Portable
furnaces.

Hot-air and
floor registers.

Gas, water, and
steam pipes.

space of three and one-half inches. All gas, water, steam, or other pipes which may be introduced into any building other than a dwelling-house shall not be let into the beams, unless the same be placed within thirty-six inches of the end of the beams: and in no building shall the said pipes be let into the beams more than two inches in depth. In all cases where hot water, steam, hot air, or other furnaces are hereafter placed in any building, due notice shall first be given to the fire department by the owner or owners of the said building, or by the person or persons placing said furnace or furnaces in said building, or by the contractor or superintendent of said work.

1871, ch. 625, §19
Comp. 536.

§ 490. In no building, whether the same be a frame building or otherwise, shall any wooden girders, beams, or timbers be placed within twelve inches of the inside of any flue, whether the same be a smoke, air, or any other flue. All wooden beams and other timbers in the party wall of every building hereafter to be erected or built of stone, brick, or iron, shall be separated from the beam or timber entering in the opposite side of the wall by at least eight inches of solid mason work. No floor beam shall be supported wholly upon any wood partition, but every beam, except headers and tail beams, shall rest, at one end, not less than four inches in the wall, or upon a girder, as authorized by this title. And every trimmer or header more than four feet long used in any building except a dwelling, shall be hung in stirrup irons of suitable thickness for the size of the timbers. No timber shall be used in any wall of any building where stone, brick, or iron is commonly used, except bond timbers and lintels, as hereinbefore provided for, or as may be approved of by said department; and no bond timber in any wall shall in width and thickness exceed that of a course of brick. No bond timber shall be more than three feet in length, and such bond timbers shall be laid eighteen inches apart, parallel to each other, and there shall be eight inches of brick or mason work between the ends of the same. In every building already erected, or hereafter to be built, the floors shall be of sufficient strength to bear the weight to be imposed upon them exclusive of the weight of the materials used in their construction; and in all storehouses the weight that each floor will safely sustain upon each superficial foot shall be estimated by the owner thereof, and posted in a conspicuous place on each floor thereof; and the weight that may be placed upon either of the floors of the said building or buildings shall be safely distributed thereon. And all timbers or beams used in any building hereafter to be constructed, altered, or repaired, whether the same be a frame building or otherwise, shall be of good, sound material, free from rot, sap, shakes, or rotten knots, and of such

Wooden beams
or girders.

Floor beams.

Trimmers and
headers.
Timbers in
walls.

Bond timbers.

Strength of
floors.

Weight, how
posted and dis-
tributed in
warehouses.

Quality and
size of timbers
or beams.

size and dimensions as the purposes for which the building is intended requires.

§ 491. In all buildings, every floor shall be of sufficient strength in all its parts to bear safely upon every superficial foot of its surface seventy-five pounds; and if used as a place of public assembly, one hundred and twenty pounds; and if used as a store, factory, warehouse, or for any other manufacturing or commercial purposes, from one hundred and fifty to five hundred pounds and upwards; and every floor shall be of sufficient strength to bear safely the weights aforesaid, in addition to the weight of the materials of which the floor is composed; and every column, post, or other vertical support shall be of sufficient strength to bear safely the weight of the portion of each and every floor depending upon it for support, in addition to the weight required as above to be supported safely upon said portions of said floors. In all calculations for the strength of materials to be used in any building, the proportion between the safe weight and the breaking weight shall be as one to three for all beams, girders, and other pieces subject to a cross-strain, and shall be as one to six for all posts, columns, and other vertical supports, and for all tie-rods, tie-beams, and other pieces subjected to a tensile strain. And the requisite dimensions of each piece of material is to be ascertained by computation by the rules given by Tredgold, Hodgkinson, Barlow, or the treatises of other authors now or hereafter used at the United States Military Academy at West Point, on the strength of materials, using for constants in the rules only such numbers as have been deduced from experiments on materials of like kind with that proposed to be used. Before any iron column, beam, lintel, or girder, intended to span an opening over eight feet in length, and intended to support a wall built of stone or brick, or any floor or part thereof, in any building hereafter erected or altered in the city of New York, shall be used for that purpose, the manufacturer or founder thereof shall have the same tested by actual weight or pressure thereon, under the direction and supervision of an inspector, authorized by the fire department (who shall be previously notified of the time when and place where the said test will be made by the person or persons having the said columns, beams, lintels, or girders so tested), whose duty it shall be to have the weight which each of the said columns, beams, lintels, or girders will safely sustain properly stamped or marked in a conspicuous place thereon by the said manufacturer or founder thereof, and no greater weight shall be put or placed upon any said column, beam, lintel, or girder than the same shall be so marked as being capable of sustaining; and in case any said column, beam, girder, or lintel shall be rejected by said

Id. §20.
Strength of
floors.

Columns or
posts.

Strength of
materials, how
calculated.

Iron columns,
beams, etc., to
support walls
or floors, how
tested.

Rejected columns, beams, etc., not to be used.

fire department as unfit to be used, the same shall not be used in, upon, or about any building or part thereof. All iron work used in any building or part thereof hereafter to be erected or altered shall be of the best material and made in the best manner:

1871, ch. 625, §31.
Comp. 537.
Fire-proof buildings.

§ 492. In all fire-proof buildings hereafter to be constructed, where brick walls, with wrought iron beams or cast or wrought iron columns with wrought iron beams, are used in the interior, the following rules must be observed:

Metal columns.

1. All metal columns shall be planed true and smooth at both ends and shall rest on cast-iron bed-plates, and have cast-iron caps, which shall also be planed true. If brick arches are used between the beams the arches shall have a rise of at least an inch and a quarter to each foot of space between the beams.

Brick arches.

Stone templates.

2. Under the ends of all the iron beams, where they rest on the walls, a stone template must be built into the walls; said templates to be eight inches wide in twelve-inch walls, and in all walls of greater thickness to be in width not less than four inches less than the width of said wall, and not to be, in any case, less than four inches in thickness and eighteen inches long.

Thickness of arches.

3. All arches shall be at least four inches thick. Arches over four feet span shall be increased in thickness toward the haunches by additions of four inches in thickness of brick; the first additional thickness shall commence at two and a half feet from the centre of the span; second addition at six and a half feet from the centre of the span, and the thickness shall be increased thence four inches for every additional four feet of span toward the haunches.

Brick arches.

4. The said brick arches shall be laid to a line on the centres, with a close joint, and the bricks shall be well wet and the joints filled with cement mortar, in proportions of not more than two of sand to one of cement, by measure. The arches shall be well grouted and pinned or chinked with slate and keyed.

1871, ch. 625, §32.
Comp. 538.
Gutters and exterior cornices.

§ 493. All exterior cornices and gutters of all buildings hereafter to be erected or built shall be of some fire-proof material, and in every case the greatest weight of stone, iron or other materials of which the cornice shall be constructed, shall be on the inside of the outer line of the wall on which the cornice shall rest, in the proportion of three of wall to two of cornice in weight, allowance being made for the excess of leverage produced by the projection of the cornice beyond the face of the wall; and all fire-proof cornices shall be well secured to the walls with iron anchors, independent of any wood-work; and in all cases the walls shall be carried up to the planking of the roof, and where the cornice projects above the roof the wall shall be

Cornices secured and anchored.

carried up to the top of the cornices, and the party wall shall in all cases extend up above the planking of the cornice and be coped with some fire-proof material; and all exterior wooden cornices that may now be, or that may hereafter become unsafe or rotten, shall be taken down, and if replaced shall be constructed of some fire-proof material, and all exterior wooden cornices or gutters that may hereafter be damaged by fire to the extent of one-third thereof, shall be taken down, and if replaced, shall be constructed of some fire-proof material; but if not damaged to the extent of one-third thereof, the same may be repaired with the same material of which it was originally constructed. All buildings shall be kept provided with proper metallic leaders for conducting the water from the roof to the ground, sewer, or street gutter, in such manner as shall protect the walls and foundations from damage, and in no case shall the water from the said leaders be allowed to flow upon the sidewalk, but shall be conducted by drain-pipe or pipes to the street gutter or sewer.

Unsafe or damaged cornices.

Metallic leaders to conduct water.

§ 494. The planking and sheathing of the roof of every building erected or built as aforesaid, shall in no case be extended across the front, rear, side, end, or party wall thereof, and every such building, and the tops and sides of every dormer-window thereon, shall be covered and roofed with slate, tin, zinc, copper or iron, or such other equally fire-proof roofing as the fire department may authorize, and the outside of the frame of every dormer-window hereafter placed upon any building as aforesaid, shall be made of some fire-proof material. And no wooden building hereafter erected or built or already erected in any part of the said city, more than two stories or above twenty feet in height above the curb level to the highest part thereof, which shall require roofing, shall be roofed with any other roofing or covering except as aforesaid. Nothing in this section shall be construed to prohibit the repairing of any shingle roof, provided the building is not altered in height. All buildings in the city of New York, whether already erected or hereafter to be built, shall have scuttle frames and covers, or bulkheads and doors, made of or covered with some fire-proof material, and all scuttles shall have stationary iron ladders leading to the same, and all such scuttles or ladders shall be kept so as to be ready for use at all times, and all scuttles shall not be less in size than two by three feet; and if a bulkhead is used or substituted in any building in place of a scuttle, it shall have stairs with a sufficient guard or hand rail leading to the roof; and in case the building shall be a tenement house, the door in the bulkhead, or any scuttle, shall at no time be locked, but may be fastened on the inside by movable bolts or hooks. And all sky-lights more than three square

Id. § 23, Comp. 329. Planking and sheathing of roofs.

Dormer-windows. Wooden buildings.

Scuttle frames or bulkheads, and iron ladders or stairs thereto.

Sky-lights, how constructed.

feet, placed in any building, the sash and frames thereof shall be constructed of fire-proof materials.

1871, ch. 625, § 24,
Comp. 539.

Frame build-
ings, stoops and
other erections.

§ 495. No frame or wooden building, shed, extension, stairway, stoop, balcony, piazza, platform, bay or oriel window, sign over two feet in height, or other structure of any kind, in whole or in part wood, shall hereafter be built or constructed in said city, unless the same shall first be authorized by the fire department, under its certificate, to be first obtained therefor; provided, however, that any piazza, platform, or balcony that does not exceed ten feet in width, and that does not extend more than three feet above the second-floor of any building to which the same may be attached, or the roof of which does not exceed the same height, may be built of wood, provided the same is open on the side; and such piazza, platform, or balcony may be built higher, or may be inclosed, provided the same shall have end or party walls of stone or brick not less than eight inches thick, which shall be started and built from the foundation and carried up above the roof, and coped with stone or iron; and the roofs of all piazzas shall be covered with some fire-proof material. Any bay or oriel window that does not extend more than three feet above the third-story floor of any dwelling-house to which the same shall be attached, may be built of wood; all privies not exceeding ten feet square and ten feet high may be built and covered with wood, boards, or shingles; and no steamboat and ferry houses, or other structures upon or adjoining any pier, slip, or bulkhead in said city shall be constructed except in such manner and of such materials as said fire department shall determine and designate, under its certificate first to be obtained therefor; and any sign, of whatever material it may be constructed, now erected, or that may be hereafter erected, on the top or street front of any building that may now be, or that may hereafter become rotten or unsafe, shall be taken down and removed.

Bay windows.

Unsafe signs.

Id. § 25,
Comp. 540.

§ 496. It shall not be lawful for the owner or owners of any brick front or wooden building erected prior to April twentieth, eighteen hundred and seventy-one, in said city, that has a peak roof, to raise the same for the purpose of making a flat roof thereon, unless the same be raised with the same kind of material as the building, and except that such new roof be covered with some one of the articles mentioned in the last section but one, and unless such building when so raised shall not exceed forty feet in height to the highest part thereof; and in all such brick dwelling-houses that have eight-inch walls, the said walls shall not exceed forty feet in height; and, also, provided that such dwelling-house exceed twenty-five feet in height to the peak before the said alteration. If any such building shall have been

built before the street upon which it is located is graded, or if the grade is altered, all such buildings may be raised or lowered to meet the requirements of such grade. And no brick front or wooden building whatsoever in said city shall be enlarged or built upon, unless the exterior walls of said addition or enlargement be constructed of fire-proof materials to be approved of by the fire department; provided, however, that such brick front or wooden building only may be raised, lowered or altered under the circumstances and in the same manner especially provided for in this section; and no wooden building shall be removed from one lot to another until a sworn petition, setting forth the purposes of said removal and the uses to which said building is to be applied, is filed in the office of the fire department, and the written consent of the inspector of buildings is first obtained therefor.

Buildings altered to conform to grade of streets.

§ 497. Every wooden or frame building with a brick or other front, situated in the said city, which may hereafter be damaged by fire or otherwise to an amount not greater than one-half the value thereof, at the time of such damage, may be repaired or rebuilt; but if such damage shall amount to more than one-half of such value thereof, exclusive of the value of the foundation, then such building shall not be repaired or rebuilt, but shall be taken down. The amount and extent of such damage, by fire or otherwise, shall be determined by one surveyor, appointed by said fire department, and one surveyor appointed by the owner or owners of the said premises; and in case those do not agree, they shall appoint a third party, and a decision of a majority of them, reduced to writing and sworn to, shall be conclusive, and such building shall in no manner be repaired or rebuilt until after such decision shall have been rendered.

1871, ch. 623, § 26.
Comp. 540.
Wooden buildings damaged one-half by fire

Extent of damage, how determined.

● § 498. No building already erected or hereafter to be built in said city shall be enlarged, raised, altered, or built upon such manner that, were such building wholly built or constructed after the passage of this act, it would be in violation of any of the provisions of this title. And before any building built of stone, brick or iron, or any wooden building, with or without a brick front, in any part of said city, shall be enlarged, raised, altered or built upon, the same shall be first examined by said department to ascertain if the building or buildings, or either of them, are in a good and safe condition to be enlarged, raised, altered, or built upon; and no such buildings, as aforesaid, shall be enlarged, raised, altered, or built upon until after such examination and decision; and the decision of said department, under such examination, shall be final and conclusive in the premises, and shall be made without delay.

Id. § 27.
Comp. 541.
Enlargement, raising or altering buildings.

Id. 28,
as amended
1874, ch. 547, §7.
Fire escapes,
alarms, etc.

§ 499. Any dwelling-house now erected, or that may hereafter be erected more than two stories in height, occupied by, or built to be occupied by two or more families, on any floor above the first, and all buildings now erected, or that may be hereafter erected, more than four stories in height, occupied by, or built to be occupied by three or more families, above the first story, and any building already erected, or that may hereafter be erected more than three stories in height, occupied or used, or built to be occupied or used as a hotel, boarding or lodging-house, or any factory, mill, offices, manufactory or workshop, in which operatives are employed, on any of the stories above the first story, and every building in an isolated position already erected, or that may hereafter be erected, more than three stories in height, built to contain or that does contain or is occupied by three or more families above the first story, shall be provided with such fire-escapes, alarms and doors as shall be directed by the fire department; and the said department shall have the power in determining the method of constructing the halls, stairways, ceilings, cellars, flues, furnaces, fire-places, and heaters in all dwellings hereafter erected in said city. And the owner or owners of any building upon which any fire-escapes may now be, or may hereafter be erected, shall keep the same in good repair and well painted, and no person shall at any time place any incumbrance of any kind whatsoever upon any said fire-escapes now erected or that may hereafter be erected in said city.

Nothing to
prevent
building frame
buildings
with shingle
roofs in 12th,
23d and 24th
wards.
1881, ch. 424, §1.

§ 500. Nothing in this title contained shall be so construed as to prohibit the building of frame buildings with shingle roofs and eight-inch brick foundation walls under the same, in the twelfth, twenty-third and twenty-fourth wards, north of One Hundred and Fortieth street. Buildings of brick not exceeding two stories in height above the basement may also be erected in said district, having basement walls twelve inches in thickness, and walls above the basement eight inches in thickness constructed of hard brick and good mortar.

1881, ch. 450, §§3, 5
Plumbing,
drainage.

§ 501. The drainage and plumbing of all buildings, both public and private, hereafter erected in the city of New York shall be executed in accordance with plans previously approved in writing by the board of health. Suitable drawings and descriptions of the said plumbing and drainage shall in each case be submitted and placed on file in the health department. The said board of health is also authorized to receive and place on file drawings and descriptions of the plumbing and drainage of buildings erected prior to the passage of this act. Any person violating any provision of this section shall be deemed guilty of a misdemeanor.

§ 502. In all buildings of a public character already erected or hereafter to be built in said city, such as hotels, churches, theatres, school-houses, restaurants, railroad depots, public halls, and other buildings used or intended to be used for purposes of public amusement or instruction, the halls, doors, stairways, seats, and aisles shall be so arranged as to facilitate egress in cases of fire or accident, and to afford the requisite and proper accommodation for the public protection in such cases, and all aisles and passage-ways in said buildings devoted to purposes of amusement or instruction, shall be kept free from camp-stools, chairs, sofas, and other obstructions, during any performance, service, exhibition, lecture, concert, ball, or any public assemblage; and the fire department may at any time serve a written or printed notice upon the owner, lessee, or manager of any of said buildings, directing any act or thing to be done in or about the arrangement of the said buildings, and the several appliances therewith connected, such as halls, doors, stairs, windows, seats, aisles and escapes, so as to afford the greatest possible security to the public in the uses to which they may be severally applied.

1871, ch. 625, § 20.
Comp. 541.
Stairways,
seats, etc., in
hotels,
churches,
theatres and
public halls.

Aisles in public
halls not to be
obstructed.

Changes in
public halls, etc.

§ 503. Before the erection, construction, alteration or repair of any building or part of any building in the city of New York is commenced, the owner shall submit to the fire department a detailed statement, in writing, of the specifications, and a full and complete copy of the plans of such proposed building, erection, alteration or repair, which shall be accompanied with a statement, in writing, sworn to before a notary public or commissioner of deeds, giving the full name and residence (street and number) of the owner, or of each of the owners of such building, or proposed building. If such erection, construction, alteration or repair is proposed to be made by any other person than the owner or owners of the land in fee, the person or persons intending to make such erection, alteration or repair, shall accompany said detailed statement of the specification and plans with a statement, in writing, sworn to as aforesaid, giving the full name and residence (street and number) of the owner or owners of the land, and also of every person interested in said building or proposed building, either as owner, lessee, or in any representative capacity. Such sworn statement may be made by the agent of the person or persons hereinbefore required to make the same, when duly authorized so to do by power of attorney from said person or persons, duly executed and acknowledged, and filed with said sworn statement. Said sworn statement, power of attorney, and detailed statement and copy of the plans and specifications, shall be kept on file in the office of the inspector of buildings in the fire department; and the erec-

Owner to
submit state-
ment to fire
department.
1881, ch. 687, § 1.

By whom to be
made, etc.

tion, construction, alteration or repair of said building, or any part thereof, shall not be commenced or proceeded with until said sworn statement shall have been so filed; and said specifications and plans shall have been approved by the inspector of buildings. But the inspector of buildings may, in his discretion, and for reasons to be stated in writing and filed with the plans and specifications, dispense with the making of said sworn statement in any case. Any false swearing in a material point in any statement submitted in pursuance of the provision of this section shall be deemed perjury and shall be punished as such.

1871, ch. 625,
§ 31, as amended
1874, ch. 547, § 8,
Comp. 542.
1880, ch. 521, § 1.
Powers of
inspector of
buildings.

§ 504. The inspector of buildings, under and subject to such rules, regulations, and orders as may be established by the fire commissioners shall have full power in passing upon any question relative to the mode, manner of construction or materials to be used in the erection, alteration or repair of any building in the city of New York, where the same is not specially provided for herein, to make the same conform to the true intent, meaning, and spirit of the several provisions hereof; and shall also have discretionary power, upon application therefor, to modify or vary any of the several provisions of this title to meet the requirements of special cases where the same do not conflict with the public safety and the public good, so that substantial justice may be done; but no such deviation shall be permitted except a record of the same shall be kept by said department and a certificate be first issued to the party applying for the same; such certificate shall be issued only upon an application setting forth the facts, sworn to by the applicant, and after said application shall have been passed upon favorably by a board of examiners consisting of the inspector of buildings, a member of the examining committee of New York Chapter of the American Institute of Architects, one of the ex-presidents of the New York Board of Underwriters, and two members of the Mechanics and Traders Exchange of said city, one of the latter of whom shall be a master carpenter and one a master mason, all of whom, except the said inspector, shall be selected by their respective organizations, and so certified by the proper officers to the said inspector; no application shall be considered as passed by said board unless the same receive three affirmative votes; no member of said board shall pass upon any question in which he is pecuniarily interested. The said board shall meet upon notice from the said inspector, who shall be chairman of the board, and the chief clerk of said bureau shall act as clerk of said board, and shall keep a record of its proceedings, which shall be filed in the office of the bureau of inspection of buildings. The members of said board, excepting said inspector, shall each be entitled to and shall receive ten dollars for each attendance at a meeting of said

Certificate.

Board of
examiners.

Compensation.

board, to be paid by the comptroller of the city of New York, from the contingent fund of said fire department upon the voucher of said inspector, but in no case shall they be entitled to receive compensation for more than two meetings in any one month. And provided further that no permit for the erection of any structure on any wharf, pier, or bulkhead shall be issued by the inspector of buildings, except by and with the approval of the said board of examiners.

Proviso.

§ 505. The owner or owners of any structure, staging, building, or part thereof, of any kind whatsoever, upon which any violation of this title may be placed or shall exist, whether he or they be the owner or owners of the land in fee or not, or be the lessee or lessees thereof, or has or have a qualified or contingent interest therein by virtue of some agreement or contract in writing, or in any other manner, and any master architect or architects, builders, carpenters, or masons who may be employed or assist therein, and any and all persons who shall violate any of the provisions of this title, or fail to comply therewith or any requirement thereof, or shall in any manner be liable therefor, shall severally, for each and every such violation and non-compliance, respectively forfeit and pay a penalty in the sum of fifty dollars; and any and all persons who shall violate any of the provisions of this title, or who may be employed or assist therein, or who shall be liable therefor, shall severally, for every such violation not removed or requirement not complied with, within ten days after notice thereof shall be given to him or them respectively, forfeit and pay an additional penalty in the sum of fifty dollars, for the recovery of which said penalties, or either of them, an action may be brought in any court of competent jurisdiction; and whenever any judgment shall be rendered therefor, the same shall be collected and enforced as prescribed and directed by the Code of Civil Procedure; the fire department is hereby authorized, in its discretion, good and sufficient cause being shown therefor, to remit any fine or fines, penalty or penalties, which any person or persons may have incurred, or may hereafter incur, under any of the provisions of this title.

1871, ch. 625, §32, Comp. 643.

Fines for violations of this title.

Failure to remove violation.

Actions, how brought.
Judgments.

Remission of fines.

§ 506. All courts of civil jurisdiction in the city of New York shall have cognizance of and jurisdiction over all suits and proceedings by this title authorized to be brought for the recovery of any penalty and the enforcement of any of the several provisions of this title; and any court of record in said city, or any judge or justice thereof, shall have power at any time after the service of notice of the violation of any of the provisions of this title, and upon the affidavit of the inspector of buildings, to restrain by injunction order the further progress of any violation

1871, ch. 625, §33, Comp. 644.
Jurisdiction of courts.

Restraint by injunction.

named in this title, or of any work upon or about the building or premises upon which the said violation exists; and no undertaking shall be required as a condition to the granting or issuing of such injunction, or by reason thereof; and all courts in which any such suit, suits or proceedings are instituted shall, upon the rendition of a verdict, report of a referee, or decision of a judge or justice for any penalty or penalties, render judgment for the amount of such penalty or penalties and costs; and the said judgments so rendered shall be and become a lien upon the premises named in the complaint in any such action, to date from the time of the filing in the county clerk's office in the city of New York of a notice of *lis pendens* therein; which lien may be enforced against said property in every respect, notwithstanding the same may be transferred subsequent to the filing of the said notice. In no case shall the said fire department or the corporation of the city of New York be liable for costs in any action, suit or proceeding that may have already been or may hereafter be instituted or commenced by the said department in pursuance of this title.

Judgment to be
a lien on
premises.
33 N. Y. 413.

1881, ch. 687, §2.
Notices to be
issued in name
of fire depart-
ment, how
served, etc.

§ 507. All notices of the violation of any of the provisions of this title, and all notices directing any thing to be done required by this title; and all other notices that may be required or authorized to be issued thereunder, including notice that any building, structure, premises, or any part thereof, are deemed unsafe or dangerous, shall be issued in the name of the fire department of the city of New York, and shall have the name of the inspector of buildings affixed thereto, and may be served by any officer or employee of the said department, or by any person authorized by the said department; all such notices and any notice or order issued by any court in any proceeding instituted by the attorney to said department, to restrain or remove any violation or to enforce compliance with any provision or requirement of this title, may be served by leaving a copy of the same with any person or persons violating, or who may be liable under any of the several provisions of this title, or to whom the same may be addressed, and if such person or persons cannot be found after diligent search shall have been made for him or them, then such notice or order may be served by posting the same in a conspicuous place upon the premises where such violation is alleged to have been placed or to exist, or to which such notice or order may refer, or which may be deemed unsafe or dangerous, which shall be equivalent to a personal service of said notice upon all parties having any interest in said premises, or to whom such notice or order may be addressed, or who may be liable for any violation under any of the provisions of this title; and such notice or order shall contain a description of the building, premises

or property upon which such violation shall have been put or may exist, or which may be deemed unsafe or dangerous, or to which such notice or order may refer.

§ 508. Any and all persons who, after having been personally served with the notice of violation as hereinbefore prescribed, shall fail to comply therewith, and shall continue to violate any of the several provisions of this title, or who shall be accessory thereto, shall, in addition to the other penalty or penalties in this title provided, be deemed guilty of a misdemeanor, and upon a complaint being made by the inspector of buildings, before any police justice or any court of criminal jurisdiction within the city of New York, shall be arrested and held to bail by said justice or said court, and, upon conviction of such offense, shall be fined in a sum not exceeding two hundred and fifty dollars, or may be imprisoned for a term not to exceed six months; said fine or imprisonment to be imposed in the discretion of the judge, justice or court by whom said person so arrested and held to bail shall be tried; and said criminal courts, and the judges thereof respectively, are hereby authorized to act and do as aforesaid.

1871, ch. 625, § 35.
Comp. 545.

Continued violations after notice, a misdemeanor.

§ 509. Any building or buildings, part or parts of a building, staging or other structure in the city of New York, that, from any cause, may now be, or shall at any time hereafter become, dangerous or unsafe, may be taken down and removed, or made safe and secure in the manner following: Immediately upon such unsafe or dangerous building or buildings, or part or parts of a building, staging or structure, being so reported by any of the officers of the fire department, the same shall be immediately entered upon a docket of unsafe buildings, to be kept by said department, and the owner or some one of the owners, executors, administrators, agents, lessees, or any other person or persons who may have a vested or contingent interest in the same, may be served with a printed or written notice containing a description of the premises or structure deemed unsafe or dangerous, requiring the same to be made safe and secure, or removed, as the same may be deemed necessary by the said department, which said notice shall require the person or persons thus served to immediately certify to the department his or their assent or refusal to secure or remove the same.

Id. § 36.

Unsafe buildings, how secured or removed.

§ 510. If the person or persons so served with notice shall immediately certify his or their assent to the securing or removal of said unsafe or dangerous building, premises or structure, he or they shall be allowed until twelve o'clock noon of the day following the service of such notice, in which to commence the securing or removal of the same; and he or they shall employ sufficient labor and assistance to secure or remove the same as

Id. § 37.

Securing build-
ings or removal
1 Abb. N. C.
164:53 N. Y. 413.

Report of
survey.

1871, ch. 825, § 38.
Comp. 546.

Report to be
submitted to
court.
7 Hun, 175.
Trial to have
precedence.

expeditiously as the same can be done; but upon his or their refusal or neglect to comply with any of the requirements of said notice so served, then a further notice shall be served upon the person or persons heretofore named and in the manner heretofore prescribed, notifying him or them that a survey of the premises named in the said notice will be made at the time and place therein named, which time may not be less than twenty-four hours or more than three days from the time of the service of the said notice, by three competent persons, each of whom shall be a practical builder or architect, and one of whom shall be the inspector of buildings, another of whom shall be an architect, appointed by the New York Chapter of the American Institute of Architects of said city, and another of whom shall be appointed by the person or persons thus notified, upon whose neglect or refusal to appoint such surveyor, however, the said other two surveyors may make such survey, and in case of a disagreement, shall appoint a third person to take part in such survey, who shall also be either a practical builder or architect, whose decision shall be final; and that in case the said premises shall be reported unsafe or dangerous under such survey, the said report will be placed before a court therein named having jurisdiction to the extent of one thousand dollars, and that a trial upon the allegations and statements contained in said report will be had before said court, at a time and place therein named, to determine whether said unsafe or dangerous building or premises shall be repaired or secured, or taken down and removed, and a report of such survey reduced to writing shall constitute the issue to be placed before the court for trial.

§ 511. Whenever the report of any such survey had as aforesaid shall recite that the building, premises, or structure thus surveyed are unsafe or dangerous, the attorney of the fire department shall, at the time in the said notice named, place said notice and report before the judge or justice holding the chambers of the court in the said notice named, which said judge or justice shall immediately proceed to obtain and impanel a jury, and to the trial of said issue before said jury, whose verdict shall be conclusive and final, and shall try said issue without adjournment, except as may be necessary from day to day, giving precedence to the trial of this issue over every other business; and said judge or justice shall have power to impanel a jury for that purpose from any jurors in attendance upon said court, or in case sufficient jurors shall not be in attendance, then from any jurors that may be summoned for that purpose; and said judge or justice shall have power to summon jurors for that purpose; and any such suit or proceeding commenced before a judge or justice may be continued before another judge or justice of the same

court; a jury trial may be waived by the default of the defendant or defendants to appear at the time and place named in the said notice or by agreement, and in such cases the trial may be by court, judge, justice, or referee, whose report or decision in the matter shall be final; and upon the rendition of a verdict or decision of the court, judge, justice, or referee, if the said verdict or decision shall find the said building, premises, or structure to be unsafe or dangerous, the judge or justice trying said cause, or to whom the report of the referee trying said cause shall be presented, shall immediately issue a precept out of said court, directed to the commissioners of the fire department, reciting said verdict or decision, and commanding them forthwith to repair and secure, or take down and remove, as the same may be, in accordance with said verdict or decision, said unsafe or dangerous building, buildings, part or parts thereof, staging, structure, or other premises that shall have been named in the said notice; and said commissioners shall immediately thereupon proceed to execute said precept as therein directed, and may employ such labor and assistance and furnish such materials as may be necessary for that purpose, and after having so done, said commissioners shall make return of said precept, with an endorsement of their action thereunder, and the costs and expenses thereby incurred, to the judge or justice then holding the chambers of the said court, and thereupon said judge or justice shall tax and adjust the amount, indorsed upon said precept, and shall adjust and allow disbursements and costs of said proceedings to said attorney at and after the rate provided in the Code of Civil Procedure in that class of actions where judgments on failure to answer can only be taken on application to the court, together with preliminary expenses of searches and survey, which shall be inserted in the judgment in said action or proceeding, and shall render judgment for such amount and for the sale of the said premises in the said notice named, together with all the right, title, and interest that the person or persons, or either of them, named in the said notice, had in the lot, ground, or land upon which the said building or structure was placed, at the time of the filing of a notice of lis pendens in the said proceedings, or at the time of the entry of judgment therein, to satisfy the same; which sale shall be in the same manner and with like effect as sales under judgment in foreclosure of mortgages; and in case such premises shall not sell for sufficient to satisfy the amount ordered to be paid by such judgment, the deficiency may be collected by execution on said judgment against the owner, or any one of the owners, of the said premises. And in and about all preliminary proceedings, as well as the carrying into effect any order of the court or any precept issued by any court, the board of fire commis-

Decision of
court to be final

Precept to issue
commanding
unsafe building
to be repaired
or removed.

Execution of
precept.
Return of, with
indorsement of
action.

Costs and dis-
bursements.

Judgment to be
rendered there-
for, and for sale
of premises.

Deficiency, if
any, how
collected.

Requisitions
for amount of
expenses.

How reim-
bursed.

1871, ch. 825, § 99,
Comp. 548.

Right of owner
to perform
requirements
of precept.

1881, ch. 687, § 3
Proceedings
in case notice
is not complied
with.

Costs.

sioners may make requisition upon the comptroller of the city and county of New York for such amount or amounts of money as shall be necessary to meet the expenses thereof; and upon the same being approved by any judge or justice of the court from which the said order or precept was issued, and presented to said comptroller, he shall pay the same; and for that purpose shall borrow and raise upon a revenue bond, to be issued in the name of the mayor, aldermen and commonalty of the said city, the several amounts that from time to time may be required, which shall be reimbursed by the payment of the amount and interest at seven per cent. out of the judgment or judgments obtained as aforesaid, if the same shall be collected. In case said issue shall not be tried at the time specified in said notice, or to which the trial may be adjourned, the same may be brought to trial any time thereafter by said commissioners, without a new survey, upon not less than three days' notice of trial to the person or persons upon whom the original notice was served, or to his or their attorney, which notice of trial may be served in the same manner as said original notice.

§ 512. Provided, nevertheless, that immediately upon the issuing of said precept, the owner or owners of said building or premises, or any party interested therein, upon application to said fire department, shall be allowed to perform the requirements of said precept at his or their own proper costs and expense, provided the same shall be done immediately, and in accordance with the requirements of said precept, upon the payment of all costs and expenses incurred up to that time.

§ 513. In case any notice or direction authorized to be issued by this title is not complied with within ten days after the service thereof, the fire department of the city of New York may, in its discretion, apply to the supreme court for the city and county of New York, at a special term thereof, at chambers, for an order directing the fire department to proceed to make the alterations, or remove the violation or violations, as the same may be specified in said notice or direction. Whenever any notice requiring fire escapes, alarms or doors to be placed in or upon any building shall have been served as directed in this title, and the same shall not have been complied with within ten days after service thereof, the fire department of the city of New York may, in its discretion, apply to the supreme court of the city and county of New York, at a special term at chambers, for an order directing the fire department to vacate such building or premises, or so much thereof as said department may deem necessary, and prohibiting the same to be used or occupied for any purpose specified in said order, until such notice shall have been complied with. The sum of twenty-five dollars shall be allowed as

costs to the attorney of said department, under and by virtue of the said applications and proceedings, or of either of them, which said amount, with all costs, expenses, and disbursements incurred in the carrying out of any said order or orders, shall become a lien upon said building or premises named in the said notice, from the time of filing of a copy of the said notice, with a notice of the proceedings taken thereunder, in the office of the clerk of the city and county of New York; and the said supreme court, or a judge or justice thereof, to whom application shall be made, is hereby authorized and directed to grant any of the orders above named, and to take such proceedings as shall be necessary to make the same effectual, and any said judge or justice to whom application shall be made is hereby authorized and directed to enforce such lien in accordance with the mechanics' lien law of the city of New York; and in case either of the notices hereinbefore mentioned shall be served upon any lessee or party in possession of the building or premises therein described, it shall be the duty of the person upon whom such service is made to give immediate notice to the owner or agent of said building named in the notice, if the same shall be known to the said person; personally, if such person shall be within the limits of the city of New York, and his residence known to such person, and if not within said city, then by depositing a copy of said notice in the New York post-office, properly inclosed, and addressed to such owner or agent, at his then place of residence, if known, and by paying the postage thereon; and in case any lessee or party in possession shall neglect or refuse to give such notice as herein provided, he shall be personally liable to the owner or owners of said building or premises for all damages he or they shall sustain by reason thereof.

Enforcement
of lien.

§ 514. All the officers of the bureau of inspection of buildings, except clerks and messengers, shall be either practical architects, house carpenters, or masons, and shall have served a regular apprenticeship as such, and shall make an affidavit to that effect, which shall be filed in the office of the fire department before their appointment to office in said bureau, and all said officers, except the chief officer of said bureau, shall, before their appointment to office in said bureau, pass an examination before the board of examiners, referred to in section five hundred and four of this act, and shall furnish a certificate of such examination from said board, certifying to their competency to perform the duties of said office, which certificate shall be filed in the office of the fire department. It shall not be lawful for any officer or employee of said bureau to be engaged in conducting or carrying on business as an architect, carpenter, mason, or builder while holding office in said bureau.

1873, ch. 335, § 76,
as amended
1890, ch. 521, §

Qualifications
of officers of
bureau of
inspection of
buildings.

See 1871, ch. 625,
§ 42, as amended
1874, ch. 547, § 9,
Comp. 549.

1871, ch. 625, §43,
Comp. 549.
Attorney of fire
department to
conduct legal
proceedings.

§ 515. The attorney to the fire department shall be authorized to sue for and collect all penalties and take charge of and conduct all legal proceedings imposed or provided for by this title ; and all suits or proceedings instituted for the enforcement of any of the several provisions of the preceding sections of this title, or for the recovery of any penalty thereunder, shall be brought in the name of the fire department of the city of New York by the said attorney, to whom all notices of violation shall be returned for prosecution, and it shall be his duty to take charge of the prosecution of all such suits or proceedings, collect and receive all moneys that may be collected upon judgments, suits, or proceedings so instituted, and upon settlement of judgment and removal of violations thereunder execute satisfaction therefor, and he shall on the first of each and every year render to the comptroller of the city of New York an account of all penalties received, and shall thereupon pay over to the said comptroller the amount of such penalties collected by him, which shall be held by the said comptroller as a fund for the use and benefit of the said department, for the purpose of carrying into effect any order or precept issued by any court or judge or justice thereof in this title named, to the said department or inspector of buildings; and the said comptroller shall pay over, from time to time, out of the said fund, upon the requisition of the said board, such sum or sums as may be allowed and adjusted by the said court, or a judge or justice thereof, for such purpose, so far as the same may be in his hands.

To render
annual account
of receipts to
comptroller.

1871, ch. 625, §44,
Comp. 550.
1880, ch. 521, §1.

§ 516. The attorney of said fire department and the officers, clerks, and messengers of the said bureau of inspection of buildings, shall perform such duties as they and each of them may be directed to do and perform by the board of fire commissioners. All the officers appointed under this title shall, so far as may be necessary for the performance of their respective duties, have the right to enter any building or premises in said city.

Right of officers to enter
buildings, etc.

1871, ch. 625, §45,
Comp. 550.

§ 517. It shall be the duty of the fire department to report, on the first day of each month, to the New York board of fire underwriters of said city, all unsafe or dangerous buildings, and any information that he may deem important to said board.

Title 6.—Relief Fund and Pensions.

1871, ch. 742,
§14, as amended
1877, ch. 186.
1879, ch. 119,
Comp. 401.
Fund, how
constituted.

§ 518. All fines imposed by the board of fire commissioners, upon members of the fire department force, by way of discipline, and collectible from pay or salary, and all rewards in money, fees, gifts, and emoluments that may be paid or given for account of extraordinary services by any member of said

force (except when allowed to be retained by said member, or given to endow a medal or other permanent or competitive reward), and all proceeds of suits for penalties under title three of this chapter, and all license fees payable under the same, or under the law with the execution of which the fire department is now or may hereafter be charged, shall be received by the treasurer of the said board for the time being, and applied by him for the purposes of the trust fund hereinafter mentioned. The commissioners of the fire department in the city of New York for the time being, and their successors in office, are hereby continued as the trustees of the fund known as "the New York fire department relief fund," and the treasurer of the said board, for the time being, who shall be the treasurer ex-officio of said relief fund, shall receive all moneys applicable to the same, and deposit the same, as such treasurer of such relief fund, to the credit of such relief fund, in a savings bank to be selected by said trustees, and continue to receive and deposit funds applicable to the same as received, to the credit of said fund, or to invest the same on bond and mortgage on improved property worth twice the amount loaned, or in public stocks, as said trustees may deem most advantageous for the object of such fund; and said trustees are empowered to make all necessary contracts, and to take all necessary remedies in the premises. The treasurer of said fund shall give a bond, with one or more sureties, in the sum of twenty thousand dollars, for the faithful performance of his duties, said bond to be approved by the comptroller and filed in his office. And the said trustees, for and on behalf of the uses and purposes of said fund, shall be entitled to receive, and there shall be paid to them all duties, taxes, allowances, fines, penalties, and fees to which the fire department of the city of New York, as at any time heretofore established, has been or is entitled except as in this act otherwise specially provided and the said trustees may take, by gift, grant, demise, or bequest, any money, real or personal property, rights of property, or other valuable thing, the annual income of which shall not exceed thirty thousand dollars in the whole; and in any year, when the condition of the said relief fund shall render it, in the judgment of the said trustees, necessary, the board of fire commissioners may receive from the authorities of the city of New York a sum not exceeding five thousand dollars, to be included in the annual estimate of the board, and drawn and collected by them in like manner as the other moneys applicable to their expenses; and such amounts so obtained shall, in like manner, be paid to and applied by the treasurer to the use of said fund, by deposit or investment as hereinbefore provided, as the trustees thereof shall direct; provided

Trustees of fund.

Treasurer

Control and deposit of fund.

Investment.

1873, ch. 333,
§77, Comp. 390.

May take by gift, bequest, etc.

Proviso.

that the sum of two hundred thousand dollars, which may be received and accumulated under the provisions of this title, shall be reserved and retained as a permanent fund, the annual income of which may be made available for the use and purposes of said relief fund.

Bond of
treasurer.

1871, ch. 742,
§14, as amended
1877, ch. 186,
and 1879, ch.
119, Comp. 403.

Retiring of
members of fire
department.

Pensions.

How deter-
mined.
Total disability.

Partial disa-
bility.

§ 519. The board of fire commissioners shall have the power, by a unanimous vote, to retire from all service in the said fire department, or to relieve from service at fires, any officer or member of the uniformed force of the said department, who may, upon an examination by the medical officer, ordered by the said fire commissioners, be found to be disqualified, physically or mentally, for the performance of his duties; and the said officer or member so retired from service shall receive from the said relief fund an annual allowance as pension in case of the total disqualification for service, or as compensation for limited service, in case of partial disability; in every case the said board of fire commissioners to determine the circumstances thereof; and said pension or allowance so allowed to be in lieu of any salary received by such officer or member at the date of his being so relieved or retired from fire duty in said department; and the said department shall not be held liable for the payment of any claim or demand for services thereafter rendered; and the amount of such pension or allowance shall be determined upon the following conditions: In case of total permanent disability, caused in or induced by the actual performance of the duties of his position, or which may occur after ten years' active and continuous service in the said fire department, the amount of annual pension to be allowed shall be one-half of the annual compensation allowed such officer or member as salary at the date of his retirement from the service, or such less sum in proportion to the number of officers and members so retired, as the condition of the fund will warrant. In case of total permanent disability not caused in or induced by the actual performance of the duties of his position, or which shall have occurred before the expiration of ten years' active and continuous service in the said fire department, the amount of annual pension to be allowed shall be one-third of the annual compensation allowed such officer or member as salary, at the date of his retirement from the service, or in proportion to the number of officers and members so retired as the condition of the fund will warrant. In case of partial permanent disability, caused in or induced by the actual performance of the duties of his position, or which may occur after ten years' active and continuous service in the said fire department, the officer or member so disabled shall be relieved from active service at fires, but shall remain a member of the uniformed force, subject to the rules governing said force, and

to the performance of such light duties as the medical officer of the said department may certify him to be qualified to perform; and the annual allowance to be paid such officer or member shall be one-half of the annual compensation allowed as salary at the date of his being so relieved, or such less sum, in proportion to the number of officers and members so retired, as the condition of the fund will warrant. In case of partial permanent disability, not caused in or induced by the actual performance of the duties of his position, or which may occur before ten years' active and continuous service in the said fire department, the officer or member so disabled shall be relieved from active service at fires, but shall remain a member of the uniformed force, subject to the rules governing said force, and to the performance of such light duties as the medical officer of the said department may certify him to be qualified to perform, and the annual allowance to be paid such officer or member shall not exceed one-third of the annual compensation allowed as salary at the date of his being so relieved, or such less sum as the said board may, in their discretion, determine, or as the condition of the fund will warrant.

§ 520. The trustees of the relief fund are authorized and empowered, from time to time, to pay a pension out of the said relief fund to the widow, child, or children of any deceased officer or member of the uniformed force of the said fire department, if the death of such officer or member occur during his service in the said uniform force, or after he was retired from service in said uniform force, provided, that the amount of any such pension to be paid by the said trustees, to each of the several representatives of such officer or member as aforesaid (in case there shall be more than one), may be from time to time determined by the said trustees according to the circumstances of each case, and that such pension may be ordered to cease and terminate at any time, if, in the opinion of the trustees, the circumstances should warrant the same; and further provided, that not more than three hundred dollars shall be paid in any one year to the representative or representatives of such officer or member, and that no part of such sum shall be paid to any such widow who shall marry again, after her remarriage, or to any child after it shall have reached the age of sixteen years.

§ 521. There shall be deducted from the monthly pay of each officer and fireman of said department, and from the monthly pension of retired members of said department, and from the pay of such of the other employees of said department as shall desire to avail themselves of this provision, the monthly sum of one dollar, which shall be received and held by the treasurer of the relief fund, in the like manner as the other moneys herein

1879, ch. 513 §1
Comp. 389.
Pensions to
widows and
orphans.

1871, ch. 742, §14.
as amended
1877, ch. 186.
1879, ch. 119.
Comp. 404.
Monthly de-
ductions from
pay of firemen.

Payments to
widow or repre-
sentatives of
firemen.

Transfer from
relief to life
insurance fund.

provided to be paid to him, and which shall be known as the New York fire department life insurance fund; and in the case of the death of any member or employee of said department, in the service thereof, or of any pensioned or retired member of said department, and so contributing, there shall be paid to the widow, or if there be no widow, then to the legal representatives of such deceased member or employee or pensioned and retired member, the sum of one thousand dollars out of the moneys so assessed; and in the case by reason of the number of deaths the aggregate amount of money so provided to be assessed and collected should prove inadequate to make such payment, then the assessment may, in the discretion of said trustees, be increased to not exceeding the sum of two dollars in each month's pay, or each month's pension of pensioned and retired members of said department; and if, in any year, owing to an excessive mortality in the uniformed force, the condition of said life insurance fund shall render it in the judgment of the said trustees, necessary, a sum not exceeding five thousand dollars may be transferred and paid over from the said relief to the said life insurance fund, for the use and purpose of said life insurance fund.

Title 7.—Tax upon Foreign Insurance Companies.

1857, ch. 548, §1,
as amended
1858, ch. 255,
Comp. 408.
Corporations
liable to tax-
ation.

§ 522. Any corporation or association created by or organized under the laws of any government other than the States of this Union, and having assets, funds, or capital, not less in amount than one hundred and fifty thousand dollars, invested in this State, shall be liable to taxation upon such assets, funds, or invested capital, as the same is levied or assessed yearly by law, which tax shall be paid as follows: Such an amount thereof as would be equal to two per cent. upon its gross premiums received for insurances upon property in the city of New York, shall, except as otherwise in this title provided, be paid annually to the treasurer of the fire department, and the residue of said tax requisite to make up the full amount of taxation upon its capital, shall be paid to the mayor, aldermen, and commonalty, as in the case of ordinary taxation; and the payments so made as aforesaid, shall exempt such corporation or association making the same from any and all further taxation upon its premiums, capital, or assets; and whenever such capital shall be reduced below said sum of one hundred and fifty thousand dollars, or withdrawn entirely, then and in either event such corporation or association shall be liable to pay the tax upon its premiums as heretofore provided in this title.

Id. §1.

§ 523. There shall be paid to the treasurer of the fire department, for the use and benefit of said fire department, on the

first day of February, in each year, by every person who shall act in the city and county of New York as agent for or on behalf of any individual or association of individuals, not incorporated by the laws of this State, to effect insurances against losses or injury by fire in the city and county of New York, although such individuals or association may be incorporated for that purpose by any other State or country, the sum of two dollars upon the hundred dollars, and at that rate upon the amount of all premiums which, during the year ending on the next preceding first day of September, shall have been received by such agent or person, or received by any other person for him, or shall have been agreed to be paid for any insurance against loss or injury by fire in the city, effected or agreed to be effected, or promised by him as such agent.

Moneys paid to department by insurance companies, etc.

§ 524. Every person who shall act in the city as agent as aforesaid, shall, on the first day of February, in each year, render to the said treasurer of the fire department a just and true account, verified by his oath, of all such premiums which, during the year ending on the first day of September preceding, shall have been received by him, or by any person for him, or which shall have been agreed to be paid for any such insurance effected or agreed to be effected, or promised by him.

Id. §2.
Account of premiums.

§ 525. No person shall, as agent or otherwise, effect or agree to effect, or procure to be effected, any insurance upon which the duty above mentioned is required to be paid, until he shall have executed and delivered to the said treasurer an undertaking, under seal, to the fire department, with such sureties as the said treasurer shall approve, that he will annually render to the said treasurer, on the first day of February, in each year, a just and true account, verified by his oath, of all such premiums, which, during the year ending on the first day of September preceding, shall have been received by him, or by any person for him, or which shall have been agreed to be paid for any such insurance effected or agreed to be effected, or promised by him, and that he will annually, on the first day of February, in each year, pay to the said treasurer two dollars upon every hundred dollars, and at that rate upon the amount of such premiums.

Id. §3.
Undertaking.

§ 526. Whenever, by reason of the failure of the sureties, or either of them, or for any other cause, an undertaking given under the last preceding section, shall or may be deemed insufficient by the said treasurer to secure a return of the account and the payment of the duty aforesaid, or either of them, the said treasurer, at his election, but not oftener than once in each year, may require such undertaking to be renewed.

1857, ch. 548, §1.
Comp. 409.
Renewal of undertaking.

Id. §5.
Penalty for not
executing
undertaking.

§ 527. Every person who shall effect, agree to effect, promise or procure any insurance mentioned in the preceeding sections of this title, without having executed and deliyered the undertaking hereinbefore required, shall, for each offense, forfeit one thousand dollars, for the use of the said fire department; and every person who shall have been required by the said treasurer to renew his undertaking, pursuant to the last preceeding section, who shall effect, agree to effect, promise or procure any such insurance, without having executed and delivered the renewed undertaking, shall for each offense forfeit one thousand dollars, for the use of the said fire department.

Id. §6.
Demand for
accounts.

§ 528. It shall be lawful for the said treasurer of the fire department, on or after the first day of February in each year, by written or printed demand, signed by him, to require from every person who shall act in the city as agent, as aforesaid, the account provided for in this title, and payment of the duty provided for; such demand may be delivered personally to such agent, or at his office or place of business to any person having charge thereof, or at his residence to any person of suitable age. And every such agent who shall, for ten days after such demand, neglect to render the account or to pay the duty demanded, or either of them, shall forfeit fifty dollars, for the use of the said fire department; and he shall also forfeit for their use twenty-five dollars in addition for every day that he shall so neglect, after the expiration of said ten days, and such additional penalty may be computed and recovered up to the time of the trial of any suit for the recovery thereof.

Id. §7.
Place of busi-
ness to be
reported.

§ 529. Every person who shall act in the city as agent, as aforesaid, shall, on the first day of February in each year, or within ten days thereafter, and as often in each year as he shall change his place of business in the said city, report, in writing, under his proper signature, to the comptroller of this State, and also to the treasurer of the said fire department, the street and the number thereof in the said city, of his place of business as such agent, designating in such report the individual or individuals and association or associations for which he shall be such agent. And in case of default in any of these particulars, such person shall forfeit for every offense the sum of one thousand dollars, for the use of the said fire department.

1857, ch. 548.
Comp. 410.
Suits for vio-
lations.

§ 530. The duty provided to be paid by this title, the damages for any breach of the undertakings, or either of them, provided for therein, and the pecuniary penalties imposed therein, or any or either of them, may be sued for and recovered, with costs of suit, in any court of record within this State, by the fire department, in their own name and for their own use.

§ 531. The defendant in any action to be brought for the recovery of any penalty incurred, or any duty or sum of money payable under this title, may be arrested, if he is not a resident of this State, or is about to remove therefrom. An order for the arrest of the defendant must be obtained from a judge of the court in which the action is brought, or from a county judge. The order shall be made when it shall appear to the judge, by affidavit, that a sufficient cause of action exists under this title, and that the defendant is not a resident of this State, or is about to remove therefrom.

Id. §9.
Arrest of
defendant.

§ 532. The corporation known as the trustees of the exempt firemen's benevolent fund of the city of New York, shall be entitled to receive, and there shall be paid to them for nine years from the seventeenth day of April, eighteen hundred and seventy-nine, the percentage of tax on the receipts of the foreign fire insurance companies doing business in the city of New York, as provided by this title, and all returns and undertakings required by this title shall during such period be made to the treasurer of the said corporation.

1866, ch. 633, §7,
as amended
1879, ch. 89, §1.
Comp. 389.

Tax on foreign
insurance
companies to
be paid trustees
benevolent
fund.

CHAPTER XII.

DEPARTMENT OF HEALTH.

Title 1.—Powers and Duties of the Department and its Officers.

§ 533. The authority, duty, and powers of the board of health shall extend over the waters of the bay, up to and within the quarantine limits as established by law, but shall not be held to interfere with the powers and duties of the commissioners of quarantine or health officer of the port.

1874, ch. 636, §2.
Comp. 456.
Powers, etc., of
board, territorial
extent of.

§ 534. There shall be two bureaus in the department of health. The chief officer of one bureau shall be called the "sanitary superintendent," who, at the time of his appointment, shall have been, for at least ten years, a practicing physician and for three years a resident of the city of New York, and he shall be the chief executive officer of said department. The chief officer of the second bureau shall be called the "register of records;" and in said bureau shall be recorded, without fees, every birth, marriage, and death, and all inquisitions of coroners, which shall occur or be taken within the city of New York. But in cases of inquests, where the jury shall find that death was caused by negligence or malicious injury, only a copy of the record need be filed in said bureau.

1873, ch. 335, §81.
Comp. 423.
Bureaus.

Register of
records.

1866, ch. 74, §14,
Comp. 429.
Building, excava-
tions, etc.

When danger-
ous to life and
health.

Order to re-
move, abate,
etc.

Hearing before
board.

Rescinding of
order, etc.
1866, ch. 686, §6,
as amended
1867, ch. 956,
§10, Comp. 441.

Excavation,
vehicles, ves-
sels, sewers,
pumps, etc.

§ 535. *First*—Whenever any building, erection, excavation, premises, business pursuit, matter or thing, or the sewerage, drainage or ventilation thereof, in said city, 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 order shall specify; and if any party served with such order (or intended to be according to this chapter), 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 proof 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. 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 burdensome than the original order. Said board may change or modify any order made under this subdivision, and may by resolution confer upon the president power to exercise in the absence of the board the authority hereinbefore given it to temporarily suspend or modify any order or its execution.

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 city 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. If said order is not complied with, or as far complied with as said 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.

Id. Comp 431.

§ 536. On or before the first day of March, eighteen hundred and eighty-two, every master or journeyman plumber, carrying on his trade in the city of New York, was required under such rules and regulations as the board of health of the health department prescribed, to register his name and address at the health department of the said city. It is not lawful for any person to carry on the trade of plumbing in the said city unless his name and address be registered as above provided. A list of the registered plumbers shall be published in the City Record at least once in each year. Any person violating any provision of this section shall be deemed guilty of a misdemeanor.

Master or
journeymen
plumbers to
register.
1881, ch. 480,
§§1, 2, 6.

§ 537. The drainage and plumbing of all buildings, both public and private, erected after the fourth day of June, eighteen hundred and eighty-one, shall be executed in accordance with plans previously approved in writing by the board of health. Suitable drawings and descriptions of the said plumbing and drainage shall in each case be submitted and placed on file in the health department. The said board of health is authorized to receive and place on file drawings and descriptions of the plumbing and drainage of buildings erected prior to said date.

Drainage, etc.,
to be according
to plans ap-
proved by
board of
health.
1881, ch. 450, §3.

§ 538. The powers of said board shall be construed to include the ordering and enforcing in the same manner as other 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 dangerous to life or health; the prevention of accidents by which life or health may be endangered; and generally the abating of all nuisances. It is hereby expressly declared that the said board

1866, ch. 74, §12
as amended
1866, ch 686, §3,
Comp. 428.

Ventilation,
drainage and
cleanliness of
markets, etc.
1867, ch. 936, §6,
Comp. 443.

shall have and possess full and complete power with reference to the ventilation, drainage, and cleanliness of the stands or stalls in or around Fulton and Washington markets, and said board shall have in said city all common law rights to abate any nuisance without suit which can or does in this State belong to any person whatever.

1866, ch. 74, §14,
Comp. 432.

§ 539. 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 city, 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 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.

Ordinances
made law by
1866, ch. 74, §12,
Comp. 437.
Bone boiling,
etc.

§ 540. It shall not be lawful for any person or persons, incorporated or unincorporated, to carry on, establish, prosecute, or continue, within the city of New York, the occupation, or trade, or business of bone boiling, bone burning, bone grinding, horse skinning, cow skinning, or skinning of dead animals, or the boiling of offal; and any such establishment, or establishments, or place of such business existing within said city, shall be forthwith removed out of said city, and such trade, occupation, or business shall be forthwith abated and discontinued, provided that nothing herein contained shall apply to the slaughtering or dressing of animals for sale in said city. It shall be the duty of the board of health to ascertain whether any such trade or business is carried on, or continued, or established within the limits aforesaid, and to make and cause an order to be served, in the same manner as other orders of said board are made and served, directing the discontinuance of said trade or business, and the removal of all offensive or unwholesome materials or things appertaining to said trade or business.

Id.

1850, ch. 275,
title 3, art. 1,
§6, Comp. 468.
Board of health
may remove
anything
dangerous to
public health.

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

may be recovered from such owner or owners, in an action at law, by said board.

§ 542. The board of health shall possess and may exercise the following powers:

1884, ch. 384, §§
Brooklyn charter, Comp. 462.

1. By order to direct any vessel lying at a place within three hundred yards of any wharf, landing place, or shore of said city, and from which they shall deem it probable that any infectious or contagious disease may be brought into said city, or communicated to the inhabitants thereof, to be removed to the distance of at least three hundred yards from any wharf, landing place, or shore of said city, within six hours after a copy of such resolution, certified by the secretary of said board, shall be delivered to the person or persons having command of such vessel, or to the master, owner, or consignee thereof; and every such person or persons, master, owner, or consignee to whom such copy of such resolutions shall be delivered shall forthwith comply with the same.

Infectious or
contagious
diseases.

2. By order to direct to be removed to a place to be designated by them, all things within the city which, in their opinion, shall be infected with any matter likely to communicate disease to the inhabitants.

Removal to
hospital.

§ 543. Every person who shall violate, or neglect, or refuse to comply with any provision contained in the preceding section, or in the resolution made or passed by the board of health in pursuance thereof, shall be deemed guilty of a misdemeanor, and, on conviction thereof, shall be punished by a fine not exceeding two hundred and fifty dollars, or imprisonment not exceeding six months, or both; and all such fines when collected shall be paid to the comptroller.

Id. §9.
Penalty for violating rules.

§ 544. The board of health shall have power to prohibit at such times, and for such period and periods of time as they shall see cause, the packing or repacking of any salted provisions in any and all parts of the city. No salted or pickled beef, pork, or fish (except smoked beef and fish) shall be deposited in such part or parts of the city during the period or periods of time so prohibited by the board of health. This section shall not be construed to prevent retail grocers, or other small dealers, from keeping on hand, for the use of their customers, small quantities, not exceeding five barrels, of each kind of provisions therein mentioned, if the provisions so kept be sound and in good order.

1880, ch. 275, §§
14, 15, 16, Comp.
469.

May prohibit
packing salted
provisions.
Salted beef,
etc., not to be
deposited in
city.

Retail grocers
may keep not
exceeding five
barrels.

§ 545. All salted or pickled provisions, and all hides, skins, and cotton that may be deposited in those parts of the city wherein the board of health shall prohibit the packing or repacking of salted provisions, at the time or times when such prohibition may be made, shall be reported forthwith, by the owner or

Id. §§17, 18,
Comp. 470.
Salted provisions,
hides, etc.,
to be reported
to board of
health.

To be removed
by owner or
sanitary super-
intendent.

person having charge thereof, to the board of health, that the same may be examined, and, if necessary, destroyed or removed. If such articles, when ordered by the board of health to be removed, shall not be forthwith removed by the owner or person having charge thereof, the sanitary superintendent shall cause them to be removed to some safe place, there to remain at the risk of the owner.

Id. §20.
Id. §21.
Comp. 470.
Penalty.

§ 546. Nothing contained in the two preceding sections shall be construed to extend to provisions exposed for sale by butchers in the public markets, or kept by the heads of families for family use. Every person who shall refuse or neglect to obey the directions of said sections, or of the board of health pursuant thereto, in relation to the provisions and other articles therein mentioned, shall be considered guilty of a misdemeanor, and, on conviction, shall be subject to fine and imprisonment, or both, at the discretion of the court. Such fine shall not exceed one thousand dollars, and such imprisonment shall not exceed two years.

1850, ch. 275 §§22,
23, Comp. 470.
Rags, hides and
skins prohib-
ited.

§ 547. No rags, hides, or skins, arriving in the port of New York, shall be deposited in any part of the city within which the board of health shall have prohibited the packing or unpacking of salted provisions, and all such articles brought into the city contrary to the above provision, may be seized and sold by the said board. The board of health may, however, permit sound hides and skins to be brought into any part of the city, in small quantities, and for the purpose of immediate manufacture, but not otherwise.

Sound hides,
etc., excepted.

Id. §§24, 25.
Comp. 471.
Damaged
cotton to be
reported by
owner.

§ 548. It shall be the duty of the master and owner of every vessel that shall have brought cotton into the city, between the first day of May and the first day of November in any year, and of the owner and consignee of such cotton, if upon examination it shall appear damaged, or otherwise unsound, to make an immediate report thereof to the board of health. Every master or owner or consignee refusing or neglecting to perform the duties so enjoined, shall, for each offense, forfeit to the board of health, the sum of five hundred dollars.

Penalty for not
reporting.

1866, ch. 74, §16,
Comp. 434.
1867, ch. 866, §3,
Comp. 442.
Power in case
of contagious
diseases.

§ 549. Said board may remove or cause to be removed to a proper place, to be by them designated, any person sick with any contagious, pestilential, or infectious disease; shall have exclusive charge and control of the hospitals for the treatment of such cases; 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.

1881, ch. 478, §3.
Board of health
to erect build-
ing for hospital
for contagious
cases.

§ 550. The board of health is authorized and empowered to erect, establish, maintain, and furnish, upon North Brothers Island, buildings and hospitals for the care and treatment of

persons sick with contagious diseases and shall have the exclusive charge and control of the said buildings and hospitals. It shall have power to take possession of, and occupy for temporary hospitals, any building or buildings in the said city, during the prevalence of an epidemic, if in the judgment of the board the same may be required, and shall pay for private property so taken a just compensation for the same. Said board may cause proper care and attendance to be given to persons sick, or removed, when it shall be made to appear to the said board that any such person is so poor as to be unable to procure for himself such care and attendance, or that the public health requires special medical care and attendance.

1850, ch. 275, §8, title 3, art. 1, Comp. 468.
1874, ch. 636, §1, Comp. 457.
1850, ch. 275, tit. 3, art. 1, §5, Comp. 467.

§ 551. The board of health may send to such place as it may direct, all aliens and other persons in the city, not residents thereof, who shall be sick of any infectious, pestilential, or contagious disease. The expense of the support of such aliens or other persons shall be defrayed by the corporation of the city of New York, unless such aliens or other persons shall be entitled to be supported by the commissioners of emigration.

1850, ch. 275, tit. 3, art. 1, §7, Comp. 468.
Non-residents.

§ 552. No person shall remove any sick person from any vessel or from any other place in said city without written permit for that purpose, granted by the president or one of the members of said board.

1854, ch. 384, §7, Brooklyn charter, Comp. 462.

§ 553. For the purpose of more effectually preventing the spread of small-pox, by the thorough and systematic vaccination of all unvaccinated persons residing in said city, the said board is hereby empowered to continue or organize a corps of vaccinators within and subject to the control of the bureau of sanitary inspection, to appoint the necessary officers, keep suitable records, collect and preserve pure vaccine lymph or virus, and to add to the sanitary code such additional provisions as will most effectually secure the end in view. Said board may take measures, and supply agents, and afford inducements and facilities for general and gratuitous vaccination and disinfection, and may afford relief to and among the poor of said city as in its opinion the protection of the public health may require.

Sick persons not to be removed from vessels.
1874, ch. 635, §1, Comp. 463.
Corps of vaccinators and other officers.
1866, ch. 74, §10, Comp. 434.
Vaccination, relief to the poor, etc.

§ 554. Whenever the amount of vaccine lymph or virus collected by the said corps shall exceed the amount required in the proper performance of its duties, the said board of health may authorize the sale of such surplus lymph or virus at reasonable rates, to be fixed by said board. The avails of such surplus lymph or virus shall be accounted for and paid to the chamberlain, and shall be set apart and constitute a distinct fund, to be known as "the fund for gratuitous vaccination," and shall be subject to the requisitions of said board for the purposes named in the preceding section.

1874, ch. 635, §2, Comp. 463.
Supplies of lymph, sale of.
Avails thereof.

1880, ch. 275, tit.
3, art. 1, §§
Comp. 467.
Duties of board
of health to
prevent the
spread of dis-
ease in the city.

§ 555. It shall be the duty of the board of health:

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

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

3. To adopt such means for preventing all communication between any part of the city infected with a disease of a pestilential, infectious, or contagious character and all other parts of the city, as shall be prompt and effectual.

1880, ch. 275, title
2, art. 4, §§
27, Comp. 465.
Board to make
proclamation
of infected
places.
How long to
have effect.

§ 556. The board of health may issue its proclamation declaring any place where there shall be reason to believe a pestilential, contagious or infectious disease actually exists, to be an infected place within the meaning of the health laws of this State. Such proclamation shall fix the period when it shall cease to have effect; but such period, if they shall judge the public health to require it, may from time to time be extended by the board of health, and notice of such extension shall be published in one or more of the newspapers of the city.

Id. § 28.
Vessels arriving
infected places
to be subject to
quarantine.

§ 557. After such proclamation shall have been issued, all vessels arriving in the port of New York from such infected place shall be subject to a quarantine of at least thirty days or until the period when such proclamation shall cease to have effect as provided by the last preceding section, and shall, together with their officers, crews, passengers, and cargoes be subject to all the provisions, regulations and penalties in relation to vessels subject to quarantine.

Id. § 29.
Intercourse
with infected
places, how
regulated.

§ 558. The board of health may, in their discretion, prohibit or regulate the internal intercourse by land or water between the city of New York and such infected place; and may direct that all persons who shall come into the city, contrary to their prohibitions or regulations, shall be apprehended and conveyed to the vessel or place whence they last came; or if sick, that they be conveyed to such place as the board of health shall direct.

1880, ch. 275, §§
30, title 3, art. 3,
Comp. 471.
Power to ex-
tend provi-
sions of this act
Board may re-
voke proclama-
tion.

§ 559. Whenever it shall appear to the board of health that any of the provisions of this title, limited in their operations to a certain period of the year, ought to be extended, the said board shall issue its proclamation extending such provisions to such time as shall be determined on by said board, and such provisions shall thereupon be extended accordingly and with the like effect as if the periods mentioned in the proclamation had

been herein enacted. If it shall appear to the board of health, while such proclamation is still in force, that the necessity of extending the period therein named has ceased, the board, by a new proclamation declaring that fact, shall revoke the proclamation issued pursuant to this section, which shall then cease to have effect.

§ 560. The board of health may appoint any physician in their employ, or in that of the commissioners of emigration, to act as the agent of the board of health in all matters concerning the protection of the city against the introduction of contagious or infectious diseases.

1849, ch. 350, § 11, Comp. 461.
Board of health may appoint an agent.

§ 561. The said board shall have full power and authority to make and pass such by-laws and ordinances as they shall, from time to time, deem necessary and proper for the filling up, draining and regulating of any grounds, yards or cellars, within the said city, that may be sunken, damp or unwholesome, or which they may deem proper to fill up, drain, raise, lower or regulate; and also, for causing all such lots of ground in the said city adjoining to Hudson's river, or to the East river or Sound, as they may from time to time think proper, to be filled up with wholesome earth or other solid materials, so far into the said rivers respectively as they shall from time to time deem expedient for promoting the health of the said city; and for filling up or altering or amending all sinks and privies within the said city, and for directing the mode of constructing them in future, and for causing subterraneous drains to be made from the same, where they may think it necessary.

1813, ch. 86, § 267, Comp. 688, 79 N. Y., 384.
Regulating grounds, yards and cellars, etc.

Privies and sinks.

§ 562. Whenever in the opinion of the board of health the protection of the public health requires the drainage of any lands in said city, by means other than sewers, such board may adopt a resolution describing the location of such lands, and directing the proper drainage thereof, and the construction of drains therefor, by the commissioner or commissioners of the department of said city having jurisdiction to construct sewers in that part of said city where such drainage is so required. Such board of health shall thereupon cause a map to be made, whereon shall be shown the location of such proposed drains, and the lands required for the construction thereof. Such resolution shall be entered at length in the records of such board of health, and such map shall be filed in such health department. A copy thereof shall be filed in the office of the register of the city and county of New York. Such board of health shall cause another copy of said map, together with a copy of such resolutions, to be delivered to the commissioner or commissioners of the department in said city who shall, by such resolution, be required to construct such drains.

1880, ch. 380, § 1.

Drainage of lands.
79 N. Y., 384

Map to be filed

- Id. §2. § 563. It shall be the duty of such commissioner or commissioners, upon the receipt of such map and resolution, through the counsel to the corporation of said city, to take immediate and proper proceedings for the acquirement of a right of way over, under, or through the lands shown upon said map to be necessary for such drains, and it shall be the duty of such counsel to the corporation immediately to take proceedings and conduct them to a speedy determination.
- Right of way.
- Id. §3. § 564. The right of way over, under, or through the lands so required for such drains shall be taken and acquired in the manner required by law for acquiring title to lands in said city to be used as public streets. Provided, however, that the time or times provided in such law for the giving or publication of any notice shall, for the purposes of this section, be reduced one-half, and the time for the sitting of the commissioners of estimate and assessment to hear objections to their report is for the purposes of this section, hereby made two days in the place of ten days. Any maps, plans, or surveys that may be required for the use of the commissioners of estimate and assessment, to be appointed in such proceeding, shall be furnished by the department charged with the construction of the drains, and shall be prepared and made by surveyors in the regular and stated employment of such department; neither the expense of such surveys nor any other expenses, other than the fees of the commissioners of estimate and assessment attending the proceeding, shall be included in the assessment that may be made by such commissioners of estimate and assessment. The counsel to the corporation shall not be entitled to any compensation for services to be rendered by him in such proceeding, other than his stated salary. The commissioners of estimate and assessment shall not be allowed any compensation for office rent, clerk, or carriage-hire. They shall each be entitled to receive the following rates as compensation for their services in full: Where the drain to be constructed is five hundred feet or under in length, the sum of twenty-five dollars. Where the drain exceeds five hundred feet in length, twenty-five dollars, and in addition thereto, five cents per foot for each running foot of drain in excess of five hundred feet, but the compensation of each commissioner shall in no case exceed one hundred and fifty dollars.
- How acquired.
- Expenses of surveys.
- 1890, ch. 390, §5.
Commissioners
to adopt plans.
- § 565. Upon the confirmation of the report of the commissioners of estimate and assessment by the court, the commissioner or commissioners of the department in said city having the charge of the construction of such drains, as herein proposed, shall have the power and they are hereby directed to make and adopt proper and suitable plans for such drains, and to construct them. The necessary cost of such drains, together with neces-

sary expenses of levying the assessment therefor, shall be levied, assessed and collected in the same manner as is authorized by law for the construction of sewers in said city.

Cost and
expense, how
to be levied

§ 566. The board of health shall have full and exclusive power and authority over the removal of night-soil, and in the removal of dead animals, offal, night-soil, blood, bones, tainted or impure meats, and other refuse matter from said city. It is hereby charged with the duty of causing the removal of the same daily, or as often as may be necessary, and of keeping the said city clean from all matter or nuisance of a similar kind.

1874, ch. 636, §10.
Comp. 458.
Night-soil, offal,
etc.

§ 567. The board of health is authorized to make contracts with any responsible person or persons for the removal of said offal, dead animals, night-soil, and other refuse matter from the city of New York, and to require and receive security in such form and amount as the said board may approve, for the faithful performance by the person or persons aforesaid, to whom such contracts may by the said board be, in its discretion, awarded, of all and every of the provisions of such contracts on his or their part.

Id. §11.
Night-soil, offal,
dead animals,
etc., contract
for removal of.

§ 568. The 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 city of New York, 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 inquests, 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 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, 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.

1867, ch. 956, §11.
Comp. 451.
Powers of
board over cor-
oners in New
York.

Board may
order burial of
body in certain
cases.

Or its removal.

§ 569. It shall be the duty of the board to grant a permit for the removal of the body of any deceased person from the city, which has not been buried, upon receiving a certificate of the death of said person, made in accordance with its rules. It may

City ordinance
made binding
by 1866, chap.
74, §12, Comp.
427, 488.

Removal of
the dead from
cemeteries.

grant a permit for the removal of the remains of any person interred within the city to a place without the same, on the application of a relative or friend of such person, when there shall appear to be no just objection to the same.

1866, ch. 74, §24,
Comp. 437.

§ 570. 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 city, 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. 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 amusement in said city; 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 city. 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 such reports, verbally or in writing, as may be required by said board.

State health
laws.

Reports from
hospitals, etc.

Officers of hos-
pitals, etc., to
give informa-
tion and make
returns to
board.

1874, ch. 636, §1,
Comp. 456.
Existence and
cause of dis-
ease, etc.

§ 571. The board of health 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 city, 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.

1866, ch. 74, §16,
Comp. 435.
Information as
to disease, etc.

§ 572. 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 city, as may be useful in the discharge of its duties, and contribute to the promotion of health or the security of life in the State of New York.

1866, ch. 74, §15,
Comp. 433.
Duty of board
to give infor-
mation, to co-
operate with
health officer,
etc.

§ 573. 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. Said board may grant bills of health to masters of vessels certifying to the condition of the city in respect of health.

1850, ch. 275,
§37, Comp. 472.

§ 574. It shall be the duty of the registrar of vital statistics to ascertain and report to each captain of police whether any physician who applies for registry, as willing to respond to any call for medical attendance, as provided in section two hundred and ninety-seven of this act, is in good and regular standing, and to transmit to such captain a certificate thereof. It shall be the duty of the board of health to pay at sight the fee of three dollars certified to be due any physician, in accordance with section two hundred and ninety-eight hereof, and to enter such payment in a book provided for that purpose, and to take up such certificate.

1880, ch. 598,
§§1, 2.

§ 575. The sanitary code adopted and declared as such at a meeting of the board of health of the health department of the city of New York, held in the city on the second day of June, one thousand eight hundred and seventy-three, as amended in accordance with law, is hereby declared to be binding and in force in said city, and shall continue to be so binding and in force except as the same may from time to time be altered, amended, or annulled by said board. Said board is hereby authorized and empowered from time to time to add to or to alter, amend or annul the said sanitary code or any part thereof. It may therein publish additional provisions for the security of life and health in the city of New York, and distribute appropriate powers and duties to the members and employees of the board of health, not inconsistent with the constitution or laws of this State. It may embrace therein all matters and subjects to which and so far as the power and authority of said board of health extends ; not limiting their application to the subject of health only. But no such alteration or amendment shall take effect or be binding or in force until the same has been published once a week for two successive weeks in the City Record. The publication of additional provisions in and of additional ordinances of the sanitary code once a week for two successive weeks in the City Record shall be sufficient and render any further publication of the same in any other newspaper unnecessary. Any violation of said code or its amendments shall be treated and punished as a misdemeanor, and the offender shall also be liable to pay a penalty of fifty dollars, to be recovered in a civil action in the

1880, ch. 135, §1,
Sanitary code.
73 N. Y., 65; 70
N. Y., 530; 4
Abb. N. C., 97;
1 Hun, 90; 3
Rob., 86.

1873, ch. 335, §82,
Comp. 424.

1867, ch. 956, §10,
Comp. 450.

1874, ch. 636, §15,
Comp. 450.

1874, ch. 631, §15,
Comp. 450.

1873, ch. 335, §82,
Comp. 424.

name of the health department of the city of New York, before any justice or tribunal in said city, having jurisdiction of civil actions; and all such justices and tribunals shall take jurisdiction of such action. In all courts of justice or judicial proceedings proof of the said sanitary code, and of the proceedings of such board of health in relation thereto, by the production of the book of minutes of such meeting held as aforesaid, or a transcript of the record of such proceedings duly authenticated by the secretary of the said board of health, shall be held and taken as complete, and valid evidence of the said sanitary code, its due adoption, enactment, and publication.

1874, ch. 663, § 4.
1866, ch. 74, § 20,
Comp. 435.
1880, ch. 135, § 1.

Not to affect
powers of
board of health.
1881, ch. 367, § 11.

§ 576. The board of health shall cause to be enforced the provisions of its sanitary code requiring that separate receptacles be provided for ashes and rubbish, and for garbage and liquid substances, and forbidding that the same be placed or kept in the same receptacle, and requiring the streets and sidewalks to be kept free from incumbrance by such receptacles except at such times as may be designated by the commissioner of street cleaning for the collection of their contents; and for violation of any of the said provisions of said code both the owners and occupants of all houses in the city shall be severally responsible and subject to the penalties and prosecutions imposed by the said code, and all other provisions of said code and of the city ordinances relative to the cleanliness of the streets, and the said board of health is empowered to institute prosecutions and suits for penalties for the violation of any such provisions, in the name of the mayor, aldermen, and commonalty of the city of New York.

1867, ch. 956, § 5.
Comp. 442.
Service of
orders.

On agents of
tenement and
lodging houses.

§ 577. 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. 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), 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, occupants and of such buildings, or parts thereof, or of the subject-matter to which such order relates.

§ 578. Service of any order made under the first subdivision of section five hundred and thirty-five shall, before its execution, be made on the owner, occupant, or tenant of the premises, property, or business, or some of them, who to said board may appear most directly interested in its execution, provided said parties, or any of them, are in said city and can be found, and such service can be conveniently made. The orders referred to in the second subdivision of said section shall, if the proper person or persons are known to the board, and can be conveniently found in said city, 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. If personal service of any order cannot be made by reason of absence from the said city, or inability to find such person therein, to be shown by the official certificate 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.

1866, ch. 74, §14.
Comp. 430.

Id. Comp. 431.
Persons on
whom orders
are to be
served.

When personal
service cannot
be made.

§ 579. 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 names 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.

1866, ch. 74, §21.
Comp. 436.
Complaint
book.

§ 580. The health department may use in compensation of special inspectors, physicians, and nurses and for supplies and contingencies, such sum, not exceeding in the aggregate fifty thousand dollars in excess of the annual appropriation as may be at any time appropriated by the board of estimate and apportionment for the prevention of dangers from contagious or infectious diseases found to exist in said city, or for the care of persons exposed to danger from contagious or infectious diseases. In the presence of great and imminent peril to the public health by reason of impending pestilence, having first taken and filed among its records what it shall regard as sufficient proof to authorize its declaration of such peril, and having duly entered the same in its records, it shall be the duty of said board to take such measures, and to do and order, and cause to be done, such

1881, ch. 240, §1;
1866, ch. 74, §10.
Comp. 434.
1874, ch. 636, §1.
subd. 2.
Comp. 436.

Extraordinary
measures and
expenditures.

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 mayor shall in writing approve. But the exercise of this extraordinary power shall also, so far as it involves such excessive expenditures, require the written consent of at least three members of the board. And such peril shall not be deemed to exist except when, and for such period of time, as the said board shall declare.

1866, ch. 74, §11.
Comp. 428.
1880, ch. 461.
See 1873, ch.
335, §81; 41 N.
Y. Supr. 323.

§ 581. Said board may fit up and furnish such offices provided for it in accordance with law, 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, subject to the other provisions of this act, make such incidental and additional expenditures, having due regard to economy, as the purposes and provisions of this chapter, 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 fulfil 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. The board of police is authorized to allow the board of health to occupy a portion of its premises.

Requisite ex-
penditures.

1866, ch. 74, §23.
Comp. 427.
Meetings of
board.

§ 582. 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.

1873, ch. 335, §81,
Comp. 423.

§ 583. Said board may delegate any portion of its powers to the president or sanitary superintendent, to be exercised when the board is not in session.

1866, ch. 74, §6.
Comp. 425.

Duties and
powers of
president.

§ 584. The president of said board shall preside and preserve order at the meetings of the board; and in case of the absence or inability of the regular secretary to attend, he shall appoint a secretary pro tempore, who, for the time being, may perform any duty of the secretary. The board at any time may elect persons to perform the duties of president or secretary pro tempore during any time when either of said officers may be absent or be unable or may refuse to perform their respective duties, 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, pre-

1867, ch. 356, §1,
Comp. 441.
Duties of
secretary.

serve its books and papers, conduct its correspondence, and aid in accomplishing the purposes of this chapter, as the board may direct. 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. 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. 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. Said board may enact such by-laws, rules and regulations as it may deem advisable, in harmony with the provisions and purposes of this chapter, 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.

1887, ch. 956, §1.
Comp. 441.

1866, ch. 74, §18.
Comp. 435.
Seal of board.

1866, ch. 74, §30.
Comp. 435.
By-laws.

§ 585. 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 city or any matter, place, or thing therein.

1866, ch. 74, §25.
Comp. 435.

§ 586. It shall be the duty of the sanitary superintendent, 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 chapter; and said officer shall devote his services to the aforesaid purposes, as the board may from time to time direct. 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 city, and any causes endangering life or health that have come to his knowledge during that period.

1866, ch. 74, §10.
Comp. 435.
Duty of sanitary superintendent.

§ 587. The sanitary superintendent or the sanitary inspectors or the officers of said board may visit all sick persons who shall be reported to the board of health as sick of any contagious, pestilential, or infectious disease and report to the board of health in writing his or their opinion of their sickness. He or they shall visit and inspect all vessels coming to the wharves, landing places, or shores of said city, or within three hundred yards thereof, which are suspected of having on board any infectious

1854, ch. 384, §10.
Brooklyn charter, Comp. 463.
Health officers' duties.

or contagious disease, or likely to communicate the disease to the inhabitants of said city, and all stores and places within said city which are suspected to contain putrid or unsound provisions, or other articles likely to communicate disease to the inhabitants, and make and sign a report in writing, stating the vessel, stores, places, and articles so inspected by him or them, and the nature, state, and situation thereof, and his or their opinion in relation thereto, as to the probability of disease being communicated by or from the same, and file such report in the office of the board of health.

1866, ch. 74, §11,
Comp. 436.

§ 588. 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 city, 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 chapter, 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 preserved among the records of said board.

1873, ch. 335, §81,
Comp. 424.
1874, ch. 630, §5,
Comp. 457.
Salary of attorney of board.

§ 589. Said board may appoint an attorney at a salary not exceeding two thousand five hundred dollars a year, to be provided for and paid as other salaries in said department. He shall when appointed as such by the said board, be also its counsel, and shall have a salary for his services as attorney and counsel to be fixed by the said board not to exceed six thousand dollars.

1866, ch. 74, §22,
Comp. 436.
Board to employ sanitary engineers.

§ 590. 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 city requiring engineering skill, and to prepare plans and reports relative thereto.

1866, ch. 74, §22,
Comp. 437.
Badge to be worn by officers of board.

§ 591. 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.

§ 592. The members of said board, the sanitary superintendent, or any of the 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 city, including vessels of all kinds in the 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 city so inspected, or otherwise as aforesaid; so far as, in the opinion of said board, such publication may be useful.

1866, ch. 74, §22,
Comp. 437.

• § 593. Proofs, affidavits, and examinations as to any matter under this chapter 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 superintendent, and any member of said board shall, severally, have authority to administer oaths in such matters, and any person guilty of willfully testifying falsely shall incur all the pains and penalties of perjury.

1866, ch. 74, §14.
Comp. 433.

Examinations.

§ 594. It shall be the duty of the board of police (and of its officers and men, as said board shall direct), to promptly advise the 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. Said 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 city. 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 orders as the board of police may make and issue. It shall be the duty of said board of police, 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. Said board of police 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. In

1866, ch. 74, §17.
Comp. 434.

Police board to
advise health
board of danger
See 41 N. Y.
Supr. 323.

1867, ch. 966,
§21, Comp. 288.

Powers of po-
lice in their en-
forcement of
sanitary rules.

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 board of police, 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 health. Said board may, with the consent of the board of police, impose any portion of the duties of subordinates in said department upon subordinates in the police department.

1873, ch. 335, §81,
Comp. 423.

1874, ch. 636, §7,
Comp. 458.

Orders of board
of health, how
executed.

Expenses, how
paid.

§ 595. The said board of health, if it shall consider the public health or interests so to require, may execute orders through its own officers or persons, and means to be engaged by the said board of health. 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 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 respective duties, shall, so far as established, be paid out of its fund or other moneys.

1873 ch. 335, §82,
as amended
1873, ch. 757, §12,
Comp. 424.

§ 596. All orders duly made by the department of health to which said department succeeded, and by their terms or necessary legal effect to be executed in the city of New York, may be executed, and the execution thereof compelled, and the execution of such of them as are partly executed may be compelled by the department of health; and the said orders may be severally rescinded or modified by said department, with like effect as could have been done by the department existing at the time the said orders were severally made. The said department may discharge all liens upon real estate in the city of New York, created in proceedings instituted by the metropolitan board of health, or the department of health which succeeded thereto, in the same manner and for the same causes that, by laws existing January first, eighteen hundred and seventy, they could be discharged by the metropolitan board of health.

1866, ch. 74, §22,
Comp. 436.

§ 597. It is 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. It is made the duty of all persons, officers and boards to make to said

1866, ch. 74, §24,
Comp. 436.

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 conferred on said board of health were exercised by any other officer of board.

§ 598. 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 city, 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 conferred were exercised.

Id. 23.
What board is not required to do.

§ 599. 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 (in good faith and with ordinary discretion) on behalf of or under said board, or pursuant to its regulations, ordinances or the 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 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.

1867, ch. 958, §7.
Comp. 449.
Members and officers of board not personally liable.
See 1874, ch. 638, §7.
Board liable to action.

What may be recovered where no undertaking given.

§ 600. Whenever the words "place, matter, or thing," or either two of said words, are used in this title or in titles four and five of this chapter, 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 section five hundred and thirty-five.

1866, ch. 74, §2.
Comp. 425.

§ 601. 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 city, unless such salary, expenditure, employment fees or expense shall be authorized by

1866, ch. 74, §12.
Comp. 427.
See id., §26, Comp. 438.
No salary or fee to be paid except as here-in provided.

the department of health. No municipal body or other authority shall create or employ any officer or agent, or incur any expense under any health laws or ordinances, or in respect of any matter concerning which said department is by this chapter given control or jurisdiction.

Title 2.—Marriages, Births, and Deaths.

1853, ch. 75, §1.
Comp. 472.
Unchanged.
Registry of
marriages.

§ 602. It shall be the duty of the clergymen, magistrates, and other persons who perform the marriage ceremony in the city of New York, to keep a registry of the marriages celebrated by them, which shall contain, as near as the same can be ascertained, the name and surname of the parties married; the residence, age, and condition of each; whether single or widowed.

1866, ch. 74, §13.
Comp. 429.
Report as to
births.
1853, ch. 75, §1.
Comp. 473.

§ 603. It shall be the duty of the parents of any child born in said city (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, 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. It shall also be the duty of physicians and professional midwives to keep a registry of the several births in which they have assisted professionally, which shall contain, as near as the same can be ascertained, the time of such birth, name, sex, and color of the child, the names and residence of the parents, and to report the same, on or before the first Monday of each and every month, to the board of health.

1866, ch. 74, §13.
Comp. 429.
Report as to de-
ceased persons.

1853, ch. 75, §1.
Comp. 473.

§ 604. 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 to report in writing to said board within five days after such death, the age, color, nativity, last occupation, and cause of death of such deceased person, and the ward and street, the place of such person's death, and last residence. Physicians who have attended deceased persons in their last illness shall, in the certificate of the decease of such persons, specify, as near as the name can be ascertained, the name and surname, age, occupation, term of residence in said city, place of nativity, condition in life; whether single, married, widow, or widower; color, last place of residence, and the direct and indirect cause of death of such deceased persons, and the coroners of the city in such cases as an inquest may have been held, shall in their certificates conform to the requirements of this section.

§ 605. For every omission of any person to make and keep the registry of marriages and births required by the preceding sections, 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 such omission shall be liable to pay a fine of ten dollars, which may be sued for and recovered in the name of said department for the benefit of said department. 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 has 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.

1886, ch. 74, §13.
Comp. 429.

Penalty for omission to report.

When party not liable to penalty.

§ 606. The board of health shall keep a record of the births, marriages, and deaths reported to it; the births shall be numbered and recorded in the order in which they are received by it; and the record of births shall state, in separate columns, the place and date of birth, the name, sex, and color of the child, the names and residence of the parents, as fully as they have been received, and the time when the record was made. The marriages shall be numbered and recorded in the order in which they are received by the board, and the record thereof shall state, in separate columns, the date of marriage, name, residence, and official station, if any, of the persons, by whom married, the names and surnames of the parties, age, the color and condition of each; whether single or widowed, and the time when the record was made. The deaths shall be likewise numbered and recorded; and the record thereof shall state, in separate columns, as far as the same is reported, the date of decease, name and surname, condition; whether single, married or widowed; age, place of birth, place of death, occupation, names of the parents when an infant without name, disease, direct or indirect cause of death, color, and last place of residence of such deceased person, and the time when the record was made. 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.

1853, ch. 75, §2.
Comp. 473.
Record of births, marriages, and deaths.

1886, ch. 74, §13.
Comp. 429.

§ 607. The births of the children of actual residents of the city of New York which may have occurred during the temporary absence of the parents of such children from the city of New York, and the births of children which failed to be recorded through the neglect of the physician or other medical attendant present at such birth, may be recorded in the bureau of vital statistics of the health department of said city, in a special book to be kept for such purpose, upon application in

1880, ch. 239, §§1, 2.
Registration of births.

Where recorded.

Certificate of
physician or
midwife.

such behalf by the parents or guardians of such children. Transcripts of any record in the said bureau of vital statistics may be given, in the discretion of the board of health, to a parent or the next of kin to any person whose birth, death, or marriage is there recorded, or to any one person authorized to apply for the same, but no transcripts of false or fraudulent returns made to the said bureau, nor of the entries thereof, shall be given; and they shall be canceled upon due proof of the facts to the board of health. Such application shall be made to the board of health, and shall be accompanied by a certificate of the physician or midwife attending professionally at such birth, and personally cognizant thereof, together with the affidavit of at least two citizens certifying to their knowledge of the facts, and that the physician or midwife making such certificate of birth is a reputable person in good standing in the community in which he or she may reside. No change or alteration shall at any time be made in any of the records of the said bureau of records in said city without proof satisfactory to and upon the approval of the said board of health.

Title 3.—Duties of Physicians and others.

1850, ch. 275,
title 3, art. 2.
§10, Comp. 469.
Duties of
physicians.
Pestilential and
contagious
diseases.

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

Report of sick.

Report of dead.

1854, ch. 384, §5,
Brooklyn charter,
Comp. 461.
See 1866, ch. 74,
§13, Comp. 423.

1. Whenever required by the board of health, to report to said board at such times, in such forms as said board may prescribe, the number of persons attacked with any pestilential, contagious or infectious disease attended by such physician for the twenty-four hours next preceding, stating the name of such patient and the name and place where he shall then be, and the number of persons attended by such physician, who shall have died in said city during the twenty-four hours next preceding such report, of any such pestilential, contagious or infectious disease.

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

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

§ 609. The board of health may require any physician to make and file in its office, within such time as they may prescribe, not less than three hours after service of a copy thereof upon him, an affidavit, stating therein whether he has or has

not any patient, who, in his opinion, shall then be sick of any pestilential, contagious, or infectious disease, and if he has any such patient, to state in his affidavit his or her name, and the house or place in said city where he or she shall then be, and the nature or name of such disease, to the best of his knowledge and belief.

Physicians to report cases of malignant sickness.

§ 610. Every practising physician who shall refuse or neglect to perform the duties enjoined on him by the six hundred and eighth section hereof, shall be considered guilty of a misdemeanor, and shall also forfeit for each offense the sum of two hundred and fifty dollars, to be sued for and recovered by the department of health. It shall be the duty of each commissioner of health, and of each visiting, hospital, and consulting physician, to make an immediate report to the board of health, of the name of every practising physician by whom he shall have reason to believe the provisions of said section have been violated; and if such physician shall neglect or refuse to perform his duty, the board shall suspend him from any office under said board, and he shall, moreover, be liable to such further penalty as the said board shall prescribe.

1850, ch. 275, title 3, art. 3, § 27, Comp. 471.

Id. §12.
Physicians violating §608 subject to fine and imprisonment.

§ 611. Every person keeping a boarding or lodging house in the city, shall, whenever required by the board of health, report in writing to the board the name of every person who shall be sick in his house within twelve hours after each case of sickness shall have occurred.

1850, ch. 275, title 3, art. 2, §11, Comp. 469.
Duties of boarding-house keepers.

§ 612. Every master, owner, or consignee of a vessel, laying at a wharf, or in the harbor of the city of New York, shall make a like report, and within the same period, of the name of every sick person on board such vessel; and no person shall be removed therefrom without a written permit for that purpose from the board of health.

Id. §12.
Duties of masters and owners of vessels.

§ 613. It shall not be lawful to drive any cattle, sheep, swine, pigs, or calves through the streets or avenues of New York, or any of them, except at such times and in such manner as the 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 south of Fortieth street, it shall be lawful to drive, through such streets and avenues as may be designated by said board, and under such restrictions 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 said streets and avenues.

1867, ch. 700, §1, Comp. 460.
Cattle driven through streets

Title 4.—Enforcement of Orders and Ordinances.

1866, ch. 74, §14,
as amended
1866, ch. 686, §5,
Comp. 433.

Order for ex-
amination be-
fore justice of
supreme court.
See 1874, ch.
636, §13.

What applica-
tion for order
shall state.

Answers of
persons exam-
ined not to be
used in criminal
proceedings.

1874, ch. 636, §13,
Comp. 439.

Appearance
and Examina-
tion of wit-
nesses.

§ 614. Any judge of the supreme court of the first judicial 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, 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 or papers, or the inspection and taking of copies of the whole or parts thereof, at a time and place within said city, 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 be made or proved. And it shall be the duty of all said judges to facilitate the early determination of the aforesaid proceedings.

§ 615. 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 shall discover 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 time and place 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.

§ 616. Said board of health may sue or be sued in or by the proper name of "the health department of the city of New York," 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.

1874, ch. 636, §4.
Comp. 457.
In what name
board may sue
and be sued.
70 N. Y. 530.
7 Daly, 280.

§ 617. Said board of health may institute and maintain all such suits and proceedings as shall be reasonable, necessary, and proper, for recovering any moneys expended, enforcing any lien or the payment of any fine, the punishment for any offense, or in other respects carrying out the provisions of the laws under which it acts.

1874, ch. 636, §8
Comp. 458.

Board may re-
cover moneys,
etc.

§ 618. In all actions in proceedings against the mayor, aldermen and commonalty of the city of New York, or any other department or person whatsoever in which any action, order, regulation, ordinance, or proceeding of the said board, or of any persons acting under or pursuant to its authority shall be called in question or made the subject of the action or proceeding, the said board of health shall be a necessary party, and have the right to answer, to appear, and to take part therein by its own attorney and counsel.

70 N. Y., 530.
1874, ch. 636, §5,
Comp. 457.
53 How. 324.

§ 619. No preliminary injunction shall be granted against the board of health, or its officers, 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. 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.

1867, ch. 956, §9
Comp. 449.
No injunction
against board,
except by su-
preme court on
notice.

1867, ch. 700, §3,
Comp. 460.

§ 620. The action, proceedings, authority, and orders of said board shall at all times be regarded as in their nature judicial,

1866, ch. 74, §31,
Comp. 440.

1866, ch. 74, §23,
Comp. 437.

1866, ch. 74, §14,
Comp. 432.

1867, ch. 956, §1,
Comp. 441.

1876, ch. 636, §12,
Comp. 459.

Court to take
judicial notice.

Record of pro-
ceedings, certi-
fied copies of,
evidence.

1866, ch. 74, §30,
as amended.

1866, ch. 686, §2,
Comp. 439.

1867, ch. 956, §17,
Comp. 452.

Violating
orders of
board a misde-
meanor.

Refusal to con-
form to regula-
tions, etc., a
misdemeanor.

Penalty.

and be treated as prima facie just and legal. All meetings of said board 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. In any suit, the right of said board or the board of police to make any order, or cause the execution thereof, shall be presumed.

§ 621. All courts shall take judicial notice of the seal of said board and of the signature of its secretary and chief clerk. Copies of the record of the proceedings of said board, of its rules, regulations, ordinances, by-laws, and books, and papers constituting part of its archives, when authenticated by its secretary or secretary pro tempore, 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.

§ 622. Whoever shall violate any provisions of this chapter, 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 board or any order of the board of police, in pursuance or execution of the order of the board of health, or willfully omit to obey any such order, shall be guilty of a misdemeanor and be liable to be indicted and punished for such offense; 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 the department of health were exercised by any other board or officer or officers, the omission or doing of such, or a corresponding act or thing, which this chapter 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 willful 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 chapter 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. All prosecutions and proceedings against any person for a misdemeanor under this chapter may be had or tried before any judge or tribunal having jurisdiction of any misdemeanor within said city. Any person, corporation or body which may have willfully done or omitted any act or thing which is in this chapter, 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 city. 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. 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. 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 chapter. 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 chapter, 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 chapter. Any civil action brought under or by authority of this chapter, may be brought in any court in said city, 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 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 Civil 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 plaintiffs 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 sanitary ordinances or regulation of said board; nor shall any court lose

1867, ch. 956, §2.
Comp. 442.

1866, ch. 74, §30,
as amended.
1868, ch. 686, §2.
Comp. 439.

Suits may be
against one or
more parties
and in name of
board.

Papers to be
served by
policemen.

Civil actions, in
what courts
may be
brought.

When actions
not to abate.

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 chapter, 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 chapter, papers filed shall be deemed entered upon or in the minutes of the board.

1866, ch. 74, §14.
Comp. 432.

§ 623. 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 city, of any law, or ordinance, the authority conferred by which is given to said board, or of any order made by said board, 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 offense 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.

Before whom
prisoner to be
brought.

1866, ch. 74, §14.
Comp. 432.
Arrest for vio-
lations of act.

§ 624. 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 city, any act or thing forbidden by this chapter, 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 the 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.

Violations of
act, misde-
meanors.

1866, ch. 74, §20,
as amended
1866, ch. 686, §1.
Comp. 436.

§ 625. Upon the complaint of any citizen of said city against any person for 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 offense, 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 offense; but no such trial shall be had on any arrest made in the city, 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 chapter, or of the Code of Sanitary ordinances, 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 chapter elsewhere conferred.

When trial to be before court of special sessions.

Amount of penalty.

To whom fines to be paid.

§ 626. 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 any 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 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.

1874, ch. 636, § 14. Comp. 459. False return, false and deceptive report, etc., a misdemeanor.

Punishment.

§ 627. It shall be a misdemeanor, punishable by imprisonment 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 the department of health, 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.

1866, ch. 74, § 25. Comp. 437. False representation as an officer.

§ 628. Every keeper of a boarding or lodging house and every master, owner, or consignee of a vessel who shall refuse or neg-

1830, ch. 273, title 3, art. 3, § 28, Comp. 471

Penalty for violating §§611 and 612 of this act.

lect to obey the orders and directions of the board of health, as provided in sections six hundred and eleven and six hundred and twelve, shall be considered guilty of a misdemeanor, and on conviction shall be fined for each offense in a sum not exceeding two hundred and fifty dollars, or be imprisoned for a term not exceeding six months.

1866, ch. 74, §32, Comp. 440.
Prosecuting officers and magistrates to act promptly.

§ 629. 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 chapter, 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.

Title 5.—Reimbursement for Expenses.

1866, ch. 74, §14, Comp. 431.

§ 630. The expenses attending the execution of any and all orders duly made by said board shall respectively be a several and joint 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 of any place, room, building, premises, matter, or thing to which said order relates, and in respect of which said expenses were incurred; and also 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.

On what expenses to be a lien.

1866, ch. 74, §14, Comp. 431.

Suit for expenses.

§ 631. Said board of health, its assignee, or the party who has under its order, or that of the board of police acting thereunder incurred any 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 in this chapter declared liable for expenses, 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.

§ 632. 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 mechanics' liens, 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 mechanic's lien; and all proceedings with reference to said lien, its enforcements 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 said time as said statement.

§ 633. When any order of said board of health has been exe-

1867, ch. 356, §13.
Comp. 450.

Expense of executing orders to be a lien.

Where notice to be filed.

When notice to become conclusive.

How long to continue a lien.

1867, ch. 356, §18.
Comp. 452.

Statement of expenses of executing orders to be filed.

How statement corrected.

Claim for penalty and for expenses joined in one action.

Joint or several judgment.

Expense and judgment a lien upon rent.

Also upon compensation.
1866, ch. 73, §14.
Comp. 481.

cuted, 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. Whenever the expenses attending the execution of any order of said board of health, 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 any provisions of this chapter, 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 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. And said expenses of executing said order, and the expenses of executing any judgment in any abatement suit in this chapter provided for, and the several judgments that may be recovered hereunder or otherwise, for any such penalty or expenses (or for 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. And such expenses and judgments shall respectively be 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. 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:

1. The board of health, or any person owning any such judgment, or the claim of 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 such compensation, 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 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.

Id. Comp. 453.
Copy of order
with statement
of expense of
transcript of
judgment to
be served.

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 the bank in the city of New York, where other funds of the board are kept, to the special account of such treasurer.

After demand
of, rent to be
paid to treas-
urer.

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

Persons refus-
ing to pay liable
for amount.

May be sued
therefor.

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

1867, ch. 856, §18,
Comp. 454.
Treasurer to
retain moneys
till twelve days
after notice.

§ 634. 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 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 hereinafter 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 re-

When money
may be claimed
back of treas-
urer after
twelve days.

covery 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 said 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.

Who to be made parties.
Judgment against co-defendant.

§ 635. In case any suit shall be brought under the last 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 title 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.

1867, ch. 956, §18
Comp. 455.

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

Money to be held pending suit.

No costs against board.

Title 6.—Abatement by Suit.

1867, ch. 936, §8.
Comp. 442.
Nuisance
defined.

§ 636. The word nuisance, as used in this title, shall be held to embrace public nuisance as known at common law, or in equity 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, sewerred, 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 title, nuisances; and all such nuisances are hereby declared illegal; and each and all persons 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.

Liability for
expense of
abating.
1866, chs. 74, 686.

1867, ch. 936, § 6,
subs. 1, 2.
Comp. 443, 444.
Suits to abate
nuisances.
See 1874, ch. 636,
§4.

§ 637. Said board of health may institute and maintain in any court in said city 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 all costs collected in any such action or proceeding shall be paid over to the treasurer of the board and accounted for by him. To all such suits the provisions of this chapter, 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.

Disposition of
costs.

1867, ch. 936, §6,
subd. 3.
Comp. 444.

How issue to be
tried.

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

Judgment to be settled.

§ 639. 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 of 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 and 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.

1890, ch. 956, §6, subd. 4.
Comp. 444.

What judgment to contain.

On what property it is a lien.

§ 640. 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

Id. subd. 5.

How removed.

1897, ch. 956, §6, Comp. 444.
Judge may order discharge when expenses paid.

On bond given.

Or on consent.

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.

Id. subd. 6,
Comp. 445.
Appeal not to
stay proceed-
ings, except on
special order.

If no stay, judg-
ment to be
executed.

Appeals to be
taken.

Temporary
stay.
Undertaking.

What to con-
tain.

No stay longer
than ten days.

Board may
appeal without
security.

§ 641. 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 to 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.

§ 642. 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.

1887, ch. 958, §6, subd. 7, Comp. 446. Claim for penalty may be joined in same action.

Motion for new trial.

§ 643. 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 civil 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.

Id. subd. 8.

What judgment at general term to contain.

Appeals to court of appeals.

When change in code of procedure to apply.

§ 644. 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, 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

1886, ch. 956, §6 subd. 9, Comp. 446.

Statement of expense of executing to be verified and filed.

Notice of filing to be given.

When statement to become final.

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.

Judge's finding final.

Effect of modified finding.

1867, ch. 956, §6, subd. 10, Comp. 447.

When execution to be issued, and for what.

Against whom.

No execution for less than amount due.

Separate execution for costs, penalty, etc.

1866, ch. 956, §6, subd. 11, Comp. 447.

§ 645. 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 defendant or defendants, in any such abatement suit for penalties, costs, 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 expenses) to be issued in due course of law.

§ 646. 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 any 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

Preliminary injunction may be granted.

What 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.

Trial may be expedited.

reached for trial or argument in due course on the calendar), as the judge or court may by special order direct.

1867, ch. 956, §6,
subd. 12,
Comp. 448.
Expenses
incurred by the
board.

§ 647. 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.

Id. subd. 13,
Comp. 449.
Expenses in-
curred by board
in good faith to
be paid from
its funds.

§ 648. 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.

Title 7.—Tenement and Lodging Houses.

1867, ch. 908, §1,
Comp. 474.

§ 649. No house, building, or portion thereof, in the city of New York 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 title.

Id. §2.

§ 650. Every house, building, or portion thereof, in the city 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

Ventilation and
windows.

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 by the inspector of buildings.

Ventilator in hall.

§ 651. Every such house shall be provided with a proper fire escape, or means of escape in case of fire, to be approved by the inspector of buildings.

1887, ch. 908, §3.
Comp. 475.
Fire escapes.

§ 652. 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 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 banisters and railings, and shall be kept in good repair.

Id. §2.

Roof in repair.

Stairs.

§ 653. Every such building shall be provided with good and sufficient water-closets or privies, of a construction approved by the board of health, and shall have proper doors, traps, soil pans, and other suitable works and arrangements, so far as may be necessary to insure 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 or 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 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 by the commissioner of public works. 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 cess-pool 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 board

Id. §3.
Water-closets or privies.

To be connected with sewer.

Obstructions, exhalations, etc.

Cess-pools, only when unavoidable.

Yard or area to
be connected
with sewer or
street gutter.

of health may direct. It shall in all cases be water-tight, 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 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.

1867, ch. 908, §6,
Comp. 478.
Cellars not
occupied as
dwellings.

§ 654. It shall not be lawful, without a permit from the 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 July first, eighteen hundred and sixty seven, or which shall not have been so let or occupied before said date. 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 title 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 the 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 section if the front room is provided with a window as

Must be
drained.

Water-closet,
windows, etc.

Back cellar
may be occu-
pled with
front one.

hereinbefore provided, and if the said back vault, cellar or room is connected 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 communicating with the external air. 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.

Steps to area.

Also over area.

§ 655. 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 board of health.

1867, ch. 908, §7.
Comp. 477.

§ 656. Every tenement or lodging house shall have the proper and suitable conveniences or receptacles for receiving garbage and other refuse matter. 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.

Every cellar requires permit.
Id. §8.
Garbage boxes.

Articles not to be stored in tenements, etc.

§ 657. 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, cess-pools, and drains thereof of the house or part of the house of which he is the owner or lessee, to the satisfaction of the 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 the 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. 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,

Id. §9.
To be kept clean.

Owners' and agents' names posted.

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 title, or by any proceedings to enforce any of its provisions, or of the acts relating to the board of health, shall be sufficient if made upon the person or persons so designated as owner or owners, agent or agents.

Id. §10.
Officers of
board of health
to have access
to houses.

Sick persons to
be reported.

§ 658. 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 and management thereof, shall, at all times, when required by any officer of the board of health, or by any officer upon whom any duty or authority is conferred by this title, 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 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.

1867, ch. 908, §11.
Comp. 478.

Buildings in-
fected or out of
repair.

§ 659. Whenever it shall be certified to the 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 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.

Id. §12.
Houses hereaf-
ter erected or
converted to
comply with
additional
requirements.

§ 660. No house erected after May fourteenth, eighteen hundred and sixty-seven 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 requirements contained in the following sections of this title :

§ 661. It shall not be lawful hereafter to erect for, or convert to, the purposes of a tenement or lodging house, a building on any lot where there is another building on 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 not be less than twenty feet ; and if they are more than three stories high, the distance between them shall not be less than twenty-five feet. At the rear of every building hereafter erected for or converted to the purpose of a tenement or lodging house on any lot, there shall be a clear, open space of not less than ten feet between it and the rear line of the lot. But when thorough ventilation of such open space can be otherwise secured, such distances may be lessened or modified in special cases by a permit from the board of health. No one continuous building shall be built or converted to the purposes of a tenement or lodging house upon an ordinary city lot, to occupy more than sixty-five per centum of the said lot, and in the same proportion if the lot be greater or less in size than twenty-five feet by one hundred feet ; but this provision shall not apply to corner lots, and may be modified in other special cases by a permit from the board of health.

§ 662. 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 six 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 pro-

Id. §13,
as amended
1880, ch. 399, §1.
Spaces between
buildings on
lots.

Occupation of
lot by building
limited.

1887, ch. 908, §14,
as amended
1879, ch. 504, §2,
Comp. 479.
Height of
rooms.

Windows.

Size of win-
dows.

Certain rooms
to have special
ventilation.

vided with special means of ventilation, by a separate air shaft extending to the roof, or otherwise, as the board of health may prescribe. But in all houses erected or converted, after June sixteenth, eighteen hundred and seventy-nine, which shall be used, occupied, leased, or rented for a tenement or lodging house, every room used, let, or occupied by any person or persons for sleeping shall have at least one window, with a movable sash, having an opening of not less than twelve square feet, admitting light and air directly from the public street or the yard of the said house, unless sufficient light and ventilation shall be otherwise provided, in a manner and upon a plan approved by the board of health.

Id. §15.
Chimneys.

Ashes and
rubbish.
Water.

Cellar floor.
Halls.

§ 663. Every such house erected after May fourteenth, eighteen hundred and sixty-seven, 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 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 in said halls, in a manner approved by the board of health.

1879, ch. 504, §3,
Comp. 481.

Over-crowding.

§ 664. Whenever it shall be certified to the board of health by the sanitary superintendent that any tenement-house or room therein is so over-crowded that there shall be afforded less than six hundred cubic feet of air to each occupant of such building or room, the said board may, if it deem the same to be wise or necessary, issue an order requiring the number of occupants of such building or room to be reduced, so that the inmates thereof shall not exceed one person to each six hundred cubic feet of air-space in such building or room. Such excess in the number of occupants shall be reduced to the standard hereby designated within ten days after the service of an order therefor upon the owner, lessee, occupant, or agent of such building or room. Whenever there shall be more than ten families living in any tenement-house, in which the owner thereof does not reside, there shall be a janitor, housekeeper, or some other responsible person, who shall reside in the said house, and have charge of the same, if the board of health shall so require.

When tenement-house to
have janitor,
etc.

1867, ch. 908,
§16, Comp. 480.
Punishment for
violation.

§ 665. Every owner or other person violating any provision of this title 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 offense shall continue. Such penalty may be sued for and recovered by the board of health, and when recovered shall be paid over to the city chamberlain and become part of the tenement-house fund, directed by section one hundred and ninety-four, subdivision nine, of this act, to be annually appropriated to the credit of the health department and to be expended by the board of health. In every proceeding for a violation of this title, 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 judgment may be given against the one or more shown to be liable, as if he or they were sole defendant or defendants.

How recovered.
1879, ch. 504, §6,
Comp. 482.
Id. §4.
Tenement-
house fund.

Owners, lessees
and occupant
may be defend-
ants.

§ 666. A tenement-house within the meaning of this title 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 home 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.

1867, ch. 906,
§17, Comp. 480.
Definition of
tenement-
house.

Definition of
lodging-house.

Definition of
cellar.

§ 667. The 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.

Id. §18.
Board of health
may make
other regula-
tions.

CHAPTER XIII.

DEPARTMENT OF PUBLIC PARKS.

1873, ch. 383, §83,
as amended
1873, ch. 757, §13,
Comp. 491.
1871, ch. 290, §6,
Comp. 507.
1878, ch. 447, §2,
Comp. 509.
Department of
parks.

§ 668. The department of public parks shall control and manage all public parks and streets immediately adjoining the same, including the whole of the land embraced within the boundaries of Riverside avenue, and all public places which are the realty of the city of New York, except the buildings in the City Hall park, and save as in this act otherwise provided, and shall have charge of the laying out and preparing maps and plans of all streets, avenues, and drives above Fifty-ninth street, except as in this act otherwise expressly provided.

1871, ch. 290, §7,
Comp. 507.
Control of part
of Battery
place.

§ 669. The department of public parks is vested with exclusive power and control over all that portion of Battery place lying south of the line of the south side of pier number one, North river, and west of the easterly line of West street, extended in a southerly direction, and also over the waters of the North river and soil under the waters thereof, in front of said portion of Battery place, and to the extent of two hundred feet westerly from the westerly end of said Battery place; and it shall be lawful for such department to erect, construct, and maintain on said part of Battery place, and over or on the lands under water before mentioned, a proper improvement, to consist of suitable buildings, docks, piers, or basins for the accommodation of small boats that may be engaged in the business of attending on shipping lying in the said river, or the bay or harbor of New York; and also to make, prescribe, and enforce, from time to time, such rules and regulations, for the use and enjoyment of the same, as to the said department shall seem meet and proper for the public interests; said board may also prescribe and enforce like rules and ordinances for the control and government of all small boats frequenting or using the water basin at the south end of the said Battery.

May erect
buildings,
docks, and
basins thereon.

Rules for con-
trol of small
boats at
Battery.

1874, ch. 604, §1,
Comp. 1027.
Powers of de-
partment of
parks to lay
out, survey and
monument
streets, roads
and avenues.

§ 670. The department of public parks shall have and possess exclusive power to lay out, survey, and monument all streets, roads, avenues, public squares, and places within that part of the city of New York, north and east of a line commencing at the termination of the southerly line of One Hundred and fifty-fifth street, at or in the Hudson river, running thence easterly along said southerly line of One Hundred and Fifty-fifth street, and a prolongation of said line to the middle of Harlem river,

and running thence southerly, along the middle of the said Harlem river, to the sound north of Randall's Island, not including, however, the Twenty-third and Twenty-fourth wards, of such width, extent, and direction, and upon such grades as to it shall seem most conducive to the public good; and to change the location, width, course, windings and grades of the streets, avenues and roads, which were on the fifth day of June, eighteen hundred and seventy-four, laid out within the said part of the City of New York; or to discontinue and close the same or any portion thereof, as to the said department, or a majority of it, shall seem most conducive to the public interest.

§ 671. The department of public parks shall have the exclusive power to locate and lay out, construct and maintain all public parks, streets, roads and avenues and to devise plans for and locate all bridges and tunnels, and to devise and prepare plans for the proper sewerage and drainage in the territory embraced in the twenty-third and twenty-fourth wards, and shall have exclusive control of the maintenance and construction of all public parks within the territory embraced in the twenty-third and twenty-fourth wards, and the exclusive right to construct and maintain all bridges, tunnels, sewers, streets, roads, and avenues so located and laid out, and the said department shall have exclusive power to establish the widths and grades of all such streets, roads and avenues so located and laid out, with authority to change the location, width, course, windings, and grades of the streets, avenues, and roads which were on the fifth day of June, eighteen hundred and seventy-four, laid out within said territory, or to discontinue and close the same, or any portion thereof, as to them shall seem most conducive to the public interest. Such streets, roads, and avenues within said territory as are laid down and established by the commissioners appointed under chapter eight hundred and forty-one of the laws of eighteen hundred and sixty-eight, on a map of the same, filed in the office of the register of the county of Westchester, on the twenty-third day of February, eighteen hundred and seventy-one, which streets and avenues, with the grades and lines thereof as laid down on said map, are hereby confirmed and established, except so far as the same have been changed or modified in pursuance of law, subject, however, to be altered by the department of public parks whenever it may deem such change required. The several surveys, maps, plans, and profiles of streets, roads, and avenues which on the twenty-third day of May, eighteen hundred and seventy-three, had been made, laid out, filed or adopted by the commissioners of public parks within the said territory, under any law of this State authorizing the same, are hereby confirmed and established,

1873, ch. 613, §14.
as amended
1874, ch. 329, §14.
Comp. 512.
Department of
public parks,
their powers as
to public parks,
streets, etc.,
within annexed
territory.
1874, ch. 604, §1.
Comp. 1027.

subject to be altered, as herein provided, and except as heretofore changed or modified in pursuance of law. No street or avenue, not on said day laid out, shall be constructed through or upon the depot or station grounds of any railroad or branch of the same, then operated by steam within the said territory, unless with the consent of the railroad company owning the same. In all cases where proceedings have been commenced for the opening of any streets, roads, or avenues, or for the construction of any street, road, avenue, or sewer within the said territory, the same shall be continued and completed under the direction of the said department of public parks. All proceedings taken since May twenty-third, eighteen hundred and seventy-three, or which are hereafter taken by virtue of this section by said department of public parks, to lay out, construct, and maintain any public parks, to devise plans for and locate any bridges or tunnels, or to locate or lay out any streets, sewers, roads, or avenues, or for the construction of any bridge, tunnels, sewers, streets, or avenues within said territory, shall be taken and prosecuted by the department of public parks, under and in pursuance of the provisions of the laws in force, for the construction of such works, or which may hereafter be passed for the taking and prosecuting of proceedings in the city of New York, by the department of public parks or the commissioner of public works.

1874, ch. 604, §2.
Comp. 1027.
Right of entry.

Maps to be
made.

§ 672. It shall and may be lawful for the commissioners of public parks, and for all persons acting under their authority, to enter in the day time into and upon any lands, tenements and hereditaments and waters which they shall deem necessary to be surveyed, used, or converted for the laying out, surveying, and monumenting of any such streets, avenues, roads, or public squares or places, as are named in the two preceding sections; and the said commissioners shall cause three similar maps or plans and profiles of the streets, avenues, roads, or public squares or places so to be laid out by them as aforesaid, and of the shores bounding the lands by them surveyed, to be made, showing the width, course, windings and grades of such streets, avenues, roads, and public squares and places, accompanied with such field notes and explanatory remarks as the nature of the subject may require, which maps, plans, and profiles, together with such notes and remarks, shall be certified to by the president of the department of public parks, or by one of the officers or commissioners of said board designated by said board for that purpose, before any person authorized by law to take acknowledgement of deeds and conveyances, and be filed, one in the office of the secretary of State, to remain of record, one in the office of the register of the city and county of New York, and

the other of said maps in the office of the said department of public parks. The said department shall not be required to complete the laying out of all the streets, avenues, and roads, public squares and places to be laid out pursuant to said sections, before filing maps and plans for any portion thereof, but whenever they shall deem the public interest so requires, they may file in the offices hereinbefore designated, maps, plans, or profiles, certified to, as hereinbefore provided, of such streets, avenues, roads, public squares, and places as they may then have laid out, or any one of such streets, avenues, or roads, public squares, or places; accompanied by such field notes and explanatory remarks as hereinbefore provided, but such streets, avenues, and roads, public squares and places, or so much of such portions thereof as the said commissioners or a majority of them shall deem proper, shall be again exhibited upon, or in connection with the maps, plans or surveys filed upon the completion of the whole work. The said commissioners shall erect suitable and durable monuments wherever they, or a majority of them, shall deem it necessary to define and designate said streets, avenues, roads, public squares and places, the location of such monuments to be noted upon the maps or plans and profiles filed by them.

§ 673. On the maps or plans prepared and filed in accordance with the provisions of the three preceding sections, the said department of public parks shall designate each street, avenue, or road, as belonging to one of three classes. A street, avenue, or road, of the first class shall be such as in the judgment of the commissioners, is or may be needed for the convenience of the general public, either as a main route of travel, or for drainage. The streets of this class may be opened by the board or department of the city government having control of such opening, whenever in their opinion the interest of the public demands such opening or grading. A street, avenue, or road of the second class shall be such as in the judgment of said commissioners is or may be needed for the use or convenience of the inhabitants of certain areas or districts, as thoroughfares, but which are not main routes of travel. Streets of this class shall be opened only on the petition of the owners of at least one-third of the linear feet of frontage on such streets, and the streets intersecting the same for five hundred feet in each direction from such intersection. A street, avenue, or road of the third class shall be such as in the judgment of the said commissioners is or may be needed only for the subdivision of the property through which it passes. Streets of this class shall be opened or graded only on the petition of the owners of at least three-fourths of the linear feet of frontage on such streets.

1874, ch. 604, §2.
as amended
1876, ch. 493, §1.
Comp. 1028.

1874, ch. 801, §3.
Comp. 1029.
Maps, etc., final
as to location,
width and
grades of
streets, etc.

§ 674. The maps, plans, and profiles of the said department of public parks, made and certified to as in the preceding sections provided, shall be final and conclusive as to the location, width, and grades of the streets, avenues, and roads, public squares, and places exhibited on such maps, plans, and profiles, as well in respect to the mayor, aldermen and commonalty of the city of New York, as in respect to the owners and occupants of lands, tenements, and hereditaments within the boundaries aforesaid, or affected by said streets, avenues, roads, public squares, and places, and in respect to all other persons whomsoever.

1871, ch. 534, §1.
Comp. 1019.
Improvement
of river and
creek.

§ 675. It shall be the duty of the department of public parks to devise and prepare plans for the improvement of the navigation of Harlem river and Spuyten Duyvil creek, the plan and location of all bridges, tunnels, and other means of transit across or under said river and creek; and plans, locations, and grades, so far as the said board may deem practicable, of all railroads and similar modes of communication and transportation to be operated by steam or other power that may hereafter be authorized by law to be constructed within, through or in connection with said area, and plans and location of new pier and bulkhead lines and the grades thereof on both sides of the Harlem river, from the line of the Third avenue to the East river or Long Island sound, and plans and location of pier and bulkhead lines and the grades thereof in and along all other tide waters bounding and adjacent to the Twenty-third and Twenty-fourth Wards or north of Spuyten Duyvil creek. Whenever the said board shall deem it proper so to do, they may file maps, plans and profiles in the manner provided in the last section but two, for the improvement of Harlem river and Spuyten Duyvil creek, and plans and locations for all bridges, tunnels and other means of transit across or under said river or creek, and the plans grades and location, so far as the said board may deem practicable, of all railroads and similar modes of communication and transportation to be operated by steam or other power, which they have determined to lay out, establish, alter, discontinue, abandon, close or retain within any particular section of the district or area hereinbefore described, and the grades therefor; and from and after the filing of said maps, plans, profiles and grades as aforesaid, the powers of the said department to lay out, establish, alter, discontinue, abandon, close or retain any improvement of Harlem river or Spuyten Duyvil creek, or bridge, tunnel, or other means of transit across or under said river, or creek, or railroads and similar modes of communication and transportation to be operated by steam or other power, or grades within such section of said district or area, shall absolutely cease

New bulkhead
and pier lines
on Harlem
river and other
tide waters.

and determine; but such improvement of Harlem river and Spuyten Duyvil creek, location of bridges and tunnels and other means of transit across or under said river and creek, and railroads and similar modes of communication and transportation to be operated by steam or other power, and grades, shall be again exhibited on the maps, plans, or surveys filed upon the completion of the whole work. Upon the filing of any plans the same shall be final and conclusive, and all such plans, grades, and location of railroads and similar modes of communication and transportation, and plans and locations of pier and bulkhead lines and the grades thereof, as aforesaid, as shall be therein or thereby shown, laid out, retained, or established, shall thereupon and thenceforth be retained or established accordingly; and such bridges, tunnels, and other means of transit across or under Harlem river and Spuyten Duyvil creek as shall be therein and thereby planned and located, shall thereupon and thenceforth be planned and located accordingly.

Streets, bridges, tunnels, grades, etc., to be exhibited on maps on completion of work.

Bridges, tunnels, and means of transit located.

§ 676. Said department shall have full power and authority to build and construct, by contract or otherwise, as they shall deem most expedient, any and all bridges, tunnels and other means of transit across or under Harlem river or Spuyten Duyvil creek, which may be planned or located as aforesaid, and may forthwith commence the building or construction of a suspension bridge north of the bridge known as the "High bridge," but not more than half a mile therefrom; and also the bridge or tunnel that may be planned or located near or at the northerly end of the Seventh avenue in the city of New York, and next thereafter the bridge or tunnel that may be planned or located at or near the northerly end of the Fifth avenue in the city of New York; provided, however, that not more than two of such bridges, or one bridge and one tunnel, or other means of transit shall be in the course or process of being built or constructed at the same time, and to build and construct, by contract or otherwise, any and all such improvements of the navigation of Harlem river and Spuyten Duyvil creek, which may be planned or located as aforesaid. The direction of the bridges, constructed over said river or creek, shall be at right angles to the courses of the improved channel, the height of the bridges in the clear, at the draws, shall be not less than twenty-four feet above the high water of spring tides, and the number and size of the bridge piers within the improved channel shall first be approved by the engineer of the United States in charge. No tunnel shall be constructed under said river or creek which will not permit of the excavation of a channel above it of at least twenty feet in depth at mean low water. There shall be constructed in every bridge, except in suspension bridges, hereafter built over

1871, ch. 534, §3.
Comp. 1022;
§8, Comp. 1024.

1876, ch. 147, §10
as amended
1879, ch. 345 §2
Comp. 1225.

Draws.

Department of
parks, to man-
age work on
bridges, tun-
nels, etc.

said river or creek, two draws contiguous to each other, and the length on the bridge occupied by the draw spans and the centre pier separating them shall be at least two hundred and forty feet. The said department shall maintain and keep in order and repair all bridges now existing across said Harlem river so far as said department shall consider advisable. The said department of public parks shall have full and exclusive power to lay out, regulate, govern, manage, and direct all the work, buildings, and constructions which they are in this section empowered and authorized to build and construct; and to pass ordinances for the regulation, control, and government thereof, and of the various works and constructions of the kind, nature, and character herein referred to, and upon or adjacent to said Harlem river and Spuyten Duyvil creek, and imposing and enforcing proper penalties for the violation of such ordinances, and defining methods for the enforcement and collection thereof, and for punishing any person or corporation violating or offending against the same.

1874, ch. 804, §4,
Comp. 1029.
The depart-
ment of parks
may acquire
title.

Assessment for
benefits.

Proceedings
therefor.

§ 677. The department of public parks, for and in behalf of the mayor, aldermen and commonalty of the city of New York, is authorized to acquire title for the use of the public, to all or any of the lands required for the streets, avenues and roads, public squares and places laid out by them, in the twenty-third and twenty-fourth wards of the said city of New York or any portion of said streets, avenues, roads, public squares and places in the said twenty-third and twenty fourth wards of said city, whenever they shall deem it for the public interest so to do; and such department may for that purpose make application to the supreme court in the first judicial district for the appointment of commissioners of estimate and assessment, specifying in such application the lands required for that purpose, and the proceedings to acquire title to such lands shall be had pursuant to such acts as shall then be in force relative to the opening of streets, avenues, roads and public squares and places in the city of New York, which said acts, so far as the same are not inconsistent with the provisions of this chapter are hereby made applicable to the streets, avenues, roads, public squares and places so laid out or to be laid out by said department of public parks, in the same manner and to the same extent as if the said streets, avenues, roads, public squares and places had been originally laid down as and for public streets, roads, avenues, squares and places by the commissioners appointed in and by the act entitled "An act relative to improvements touching the laying out of streets and roads in the city of New York, and for other purposes," passed April third, one thousand eight hundred and seven, except that the said commissioners of estimate and

assessment who may be appointed, as herein provided, may assess for such opening all such parties and persons, lands and tenements, as they may deem to be benefited by such improvement, to the extent which said commissioners of estimate and assessment deem such parties, persons, lands and tenements benefited thereby, provided that as to streets, avenues or roads which shall be, in the opinion of said the commissioners of estimate and assessment, or a majority of them, more than one mile in length, not more than one-half of the amount awarded for damages, and of the expenses attending such opening, shall be so assessed; the amount of such damages and expenses not so assessed being hereby made a charge upon the city of New York, to be paid as hereinafter provided. The moneys collected upon the assessment of the commissioners of estimate and assessment shall be paid into the city treasury. No compensation shall be allowed for any buildings, erection or construction which at any time subsequent to the filing of the maps, plans or profiles mentioned in section six hundred and seventy-two of this act, may be built, erected or placed in part or in whole upon or through any street, avenue, road, public square or place exhibited upon such maps, plans or profiles. The damages awarded by commissioners of estimate and assessment, appointed pursuant to the provisions of this act, shall become due and payable immediately upon the confirmation of the report of said commissioners of estimate and assessment.

Compensation
for buildings,
etc.

Damages, when
payable.

§ 678. The department of public parks for and in behalf of the mayor, aldermen and commonalty of the city of New York is authorized to acquire title for the use of the public to approaches to bridges and tunnels, sites or lands above or under water for bridges and tunnels, and sites or lands above or under water for all improvements of the navigation of Harlem river and Spuyten Duyvill creek that may be laid out or retained by them under section six hundred and seventy-five, whenever they shall deem it to the public interest so to do, and such department shall for that purpose make application to the supreme court in the first judicial district for the appointment of commissioners of estimate and assessment, specifying in such application lands required for that purpose; and such proceedings to acquire titles to such lands shall be had pursuant to such acts as shall then be in force relative to the opening of public squares and places, streets, avenues and roads in the city of New York, except that in such proceedings the department of public parks shall act in lieu and in place of the mayor, aldermen and commonalty of the city of New York, except also that the commissioners of estimate and assessment who may be appointed as herein provided may assess for such openings and land laid out and retained all

1871, ch. 534, §10.
Comp. 1025.
Title to lands in
New York city,
how acquired.

such parties and persons, lands and tenements as they may deem to be benefited by such improvements to the extent which such commissioners deem such persons, parties, lands and tenements benefited thereby; and it shall be the duty of the counsel to the corporation of the city of New York to perform all the legal services required of him in the proceedings authorized by this act without any additional compensation beyond the salary and allowances now provided by law; and the said streets, avenues or roads, approaches to bridges and tunnels, sites or lands above or under water for bridges and tunnels, and sites or lands above or under water for all improvements of navigation of Harlem river and Spuyten-Duyvill creek, as shall be laid out or retained by the department of public parks, as aforesaid, shall immediately after the same are laid out and opened be and remain under the control and management of the department of public parks, as to the regulating, grading and proper constructing and maintaining the same and all the works pertaining thereto.

Streets and
avenues, lands
for bridges, etc.,
to remain
in control of
department of
parks.

1873, ch. 613, § 17,
Comp. 598.
Mapping of 23d
and 24th wards.

§ 679. It shall be the duty of the department of public parks to cause to be made maps of the territory constituting the Twenty-third and Twenty-fourth wards, for the use of the department of taxes and assessments. Such maps shall show all street, road, and property lines, and the divisions of all lots and separate properties, and the dimensions of the same. The said maps shall be of such scale, form and dimensions, and bound in volumes of such size as may be directed by the commissioners of taxes and assessments. The said lots and separate properties shall be designated on said maps by numbers, as may be directed by the commissioners of taxes and assessments. The department of public parks shall cause such maps and surveys as may be found necessary for their completion, to be made by competent surveyors and draughtsmen in the office and under the direction of the civil and topographical engineer in charge of surveying, laying out, and monumenting the Twenty-third and Twenty-fourth wards, and so far as practicable from the maps of topographical surveys of the town of Morrisania, made under the direction of the commissioners appointed under chapter eight hundred and forty-one of the laws of eighteen hundred and sixty-eight, and the topographical maps of the towns of West Farms and Kingsbridge, made under the direction of the commissioners of the Central park and the commissioners of the department of public parks, which said maps are now in the possession of said department of public parks.

How and by
whom to be
made.

Entrances to be
completed.
1881, ch. 324, § 1.

§ 680. The board of commissioners of the department of public parks is hereby authorized to complete the entrances on the Eighth avenue, at Seventy-seventh and Eighty-first streets, to

the westerly drive, and on the avenue between said streets to the transverse road. The plans for said improvements may be prepared by the trustees of the American Museum of Natural History, without cost to said city, subject to the approval of said board of commissioners.

Plans.

§ 681. In all cases of improvements touching the laying out of streets, avenues, roads, public squares and places, where the department of public parks is required to file maps, plans or surveys thereof, and of the grades therefor, it shall not be necessary to file the maps showing the laying out, and the maps showing the grades therefor, at the same time; but whenever it shall deem the public interest to so require, it may file in the offices hereinbefore designated, maps, plans or surveys, certified as hereinbefore provided, of such streets, avenues, roads, public squares and places, and of grades as it may, from time to time, lay out and establish, and all the provisions of this act shall be applicable to the same when so filed; but such streets, avenues, roads, public squares and places, and grades, shall be again exhibited on the maps, plans or surveys filed upon the completion of the whole work.

1867, ch. 697
Comp. 1011.
When it shall
not be neces-
sary to file
maps, etc.

§ 682. It shall be the duty of the said department to inclose, lay out, grade, regulate, drain, and improve that piece or parcel of land known as Manhattan square, bounded on the north by Eighty-first street, on the east by the Eighth avenue, on the south by Seventy-seventh street, and on the west by the Ninth avenue, and to connect the same with the Central park in such way or ways as shall not interfere with the full, free, and uninterrupted use of the Eighth avenue as a public street.

1864, ch. 319, §1.
Comp. 407.
Manhattan
square annexed
to Central park.

Eighth avenue
to be kept open.

§ 683. The department of public parks is authorized and directed to proceed with the improvement and inclosure of the several public squares, parks, or places laid out and established within the lines of Fourth avenue, between Sixty-seventh and Ninety-sixth streets. But said squares or places shall be so laid out and established as not to change, alter, or interfere with the Fourth avenue improvement, or with the plans and openings established and carried out by the board of engineers of the Fourth avenue improvement.

1880, ch. 588, §1.
Department of
public parks to
proceed with
improvements
of parks, etc.

§ 684. The public park, or place, or square, known as Washington square or Washington parade ground, shall (except the street or roadway through the same, running from Fifth avenue on the north to South Fifth avenue on the south) be used in perpetuity as one of the public parks, or squares, or places of said city, and shall be kept by the department of public parks in proper order, ornamented and protected, for the public use as a public park, and for no other use or purpose whatsoever.

1878, ch. 880, §1.
Comp. 985.
Washington
park.

§ 685. The land at present occupied by the reservoir on Fifth

1881, ch. 450,
§§ 4, 5; 1871, ch.
682, § 3.
Comp. 1176.
Land to be a
public park.

avenue, between Fortieth and Forty-second streets, together with the adjacent land lying west thereof, known as Reservoir square, shall be converted into a public park, which shall be laid out by, and be under the control and management of the park commissioners, and kept and maintained by them as one of the public parks and places in the city of New York. It shall not be used for military parades, drills, inspections or reviews of any kind, but only for a public park or square.

Commissioners
to proceed with
improvement
in Hunt's Point
District.
1881, ch. 461.

§ 686. The commissioners of the departments of public parks are authorized and directed to proceed with the improvement, by inclosure and otherwise, of the public parks or places in the Twenty-third ward of the city of New York, shown on a map of the "Hunt's Point District," dated March twenty-third, eighteen hundred and seventy-eight, and filed by the commissioners of the department of public parks in accordance with the provisions of chapter six hundred and four of the laws of eighteen hundred and seventy-four, and chapter four hundred and thirty-six of the laws of eighteen hundred and seventy-six, respectively, situated at the intersection of Third avenue with Boston avenue, and at the intersection of Franklin avenue with Fulton avenue,

1886, ch. 757, § 3,
Comp. 948.
Broadway, be-
tween Fifty-
seventh and
Fifty-ninth
streets.

§ 687. No portion of Broadway, between Fifty-seventh street and the northerly line of Fifty-ninth street, shall be used for any other purpose than that of a public street or public place, nor shall any portion thereof be used as a carriage or hack stand, nor shall any stall, stand, or erection or incumbrance of any kind be permitted therein, but the same and every portion thereof within the limits aforesaid, shall be kept free and clear for the passage of the public, and, as respects its use, shall be under the exclusive control and management of the commissioners of the Central park, who are authorized to make such rules and regulations respecting its use, not inconsistent with the provisions of this section, as they may deem proper.

1873, ch. 850, § 1,
Comp. 510.
Determination
of lines of
curbs, etc.
vested in com-
missioners.

§ 688. The determination of the lines of curb and other surface constructions in all the streets and avenues, within the distance of three hundred and fifty feet from the outer boundaries of any public park or place, which is now or hereafter may be under the control and management of the department of public parks, is vested in the said department; and the said department shall also have power to plant trees and to construct, erect, and establish seats, drinking fountains, statues, and works of art, whenever they may deem it for the public interest so to do, on the said parts of said public streets and avenues; and the said parts of said public streets and avenues shall at all times, after the same are opened, be subject to such rules and regulations in respect to the uses thereof and erections and projections thereon as the said department may make therefor. Nothing in

this section contained shall be construed to authorize the said department to do any work in the matter of regulating, grading, paving, sewerage, curbing, and guttering any of the streets or avenues herein mentioned, which the department of public works is authorized by law to do.

§ 689. All moneys heretofore appropriated and granted, or that may hereafter be appropriated and granted to the said department of public parks, for the improvement and maintenance of any of the public parks and places under their management and control, shall be deemed and taken to be appropriated and granted for and applicable to the improvement and maintenance of the avenues and streets bordering and within the distance of three hundred and fifty feet from the outer boundaries of each of such parks and public places, so far as the work of such improvement and maintenance is done by said department.

1873, ch. 830, §3.
Comp. 510.

Moneys appropriated applicable to streets bordering on parks.

§ 690. The commissioners of public parks may organize and appoint a force to be known as keepers of the Central park, and the several public parks, squares, and places in the city, to consist of such number of men as the board may, from time to time, deem necessary to preserve order in the said Central park and in the several public parks, squares, and places; which force shall be under the exclusive control and direction of said board, and may be, in whole or in part, discharged at pleasure; each member of said force shall, by virtue of his appointment, be invested with the same powers, within the limits of said public parks, squares, and places, and that portion of the streets and avenues bounding the same as lie adjacent thereto, as if he had been appointed to a similar rank in the force of the police department of the city, and shall take an oath to be prescribed by said board, and may be allowed compensation by said board equal to that allowed to members of said police force. Whenever special circumstances shall, in the judgment of said commissioners, require an additional force for the preservation of order in any of the said public parks, squares, and places, the said board may appoint the same temporarily, as in their judgment the occasion may require; and during such period said additional force shall have the same powers as the said keepers of the said Central park and the several city parks, squares, and places; and the said department shall have the full and exclusive power to govern, manage, and direct the said several public parks, squares, and places, and to pass ordinances for the regulation and government thereof; and all persons offending against such ordinances shall be deemed guilty of a misdemeanor and be punished, on conviction before the recorder or any magistrate of the city, by a fine not exceeding fifty dollars, and in default of payment, by imprisonment not exceeding thirty days.

1871, ch. 290, §6
Comp. 507.

Keepers of the Central and other parks, how appointed.

Their powers.

Additional temporary force.

1878, ch. 125, §1,
as amended
1879, ch. 478,
Comp. 164.

§ 691. The department of public parks shall have exclusive authority to decide when and where any new lamps shall be put and lighted in any parks or places under its control.

1865, ch. 26, §7,
Comp. 504.
Military en-
campment, etc.,
in Central park
forbidden.

§ 692. No military encampment, parade, drill, review, or other military evolution or exercise, shall be held or performed on Central park, or any part thereof, except with the previous consent of the said board, nor shall any military company, regiment, or other military body, enter or move in military order within said park. No military officer shall have authority to order, direct, or hold any such parade, drill, review, or other evolutions or exercise, or encampment within said park, except in case of riot, insurrection, rebellion or war. It shall not be lawful to grant, use or occupy for the purposes of a public fair or exhibition any portion of said park.

1871, ch. 208.

1869, ch. 509, §§1,
2, Comp. 517.

§ 693. The department of public parks is hereby authorized to erect, establish, conduct, and maintain on the Central park, a meteorological and astronomical observatory, and a museum of natural history, and a gallery of art, and the buildings therefor, and to provide the necessary instruments, furniture, and equipments for the same.

Observatory in
Central Park.
1864, ch. 319, §1,
Comp. 497.

§ 694. The said department shall have power to establish and maintain on Manhattan square, or any other part of the Central park, a botanical and zoological garden, provided, however, that the said commissioners shall not fix or establish, or in any manner change or alter the grade of the streets surrounding the said piece of ground known as Manhattan square, as now fixed and established by law.

Botanical and
zoological
garden.
1865, ch. 26, §6,
Comp. 504.

§ 695. Admission to the zoological or botanical gardens shall be either free to the public or upon the payment of such sum as may be prescribed by said department; and all income from said gardens and from the sale of the surplus animals thereof, shall be applied to the expenses of the maintenance, government and support thereof, or of said park. Said department may agree for the management and maintenance of said gardens with any society heretofore incorporated by the legislature of the State for that purpose; but the above mentioned gardens shall always be under the control of said department.

Department to
determine con-
dition of
admission to
gardens.
1876, ch. 189, §1,
Comp. 518.
Contract with
American
Museum, etc.

§ 696. The department of public parks is hereby authorized and directed to continue the contract with the American Museum of Natural History for the occupation by it of the buildings erected or to be erected on that portion of the Central park formerly known as Manhattan square, and establishing and maintaining therein its museum, library, and collections, and carrying out the objects and purposes of the said society.

Id. §2.

§ 697. The department of public parks is hereby authorized and directed to continue the contract with the Metropolitan

Museum of Art for the occupation by it of the buildings erected or to be erected on that portion of the Central park east of the old receiving reservoir, and bounded on the west by the drive, on the east by the Fifth avenue, on the south by a continuation of Eightieth street, and on the north by a continuation of Eighty-fifth street, and transferring thereto, and establishing and maintaining therein its museum, library and collections, and carrying out the objects and purposes of the said museum of art.

Also with Metropolitan Museum of Art.

§ 698. The department of public parks, with the concurrence of the board of estimate and apportionment, is authorized to enlarge the building now erected upon that portion of the Central park east of the old receiving reservoir, and now in the possession and occupation of the Metropolitan Museum of Art. The plans for said enlargement, and for the equipment of the same, shall be prepared by the trustees of the said Metropolitan Museum of Art, and approved by the board of commissioners of the department of public parks. Said plans may include any alteration of the present building made necessary by the enlargement, or found by experience to be desirable.

Park commissioners may enlarge building occupied by Museum of Art. 1881, ch. 375, §1.

§ 699. The department of public parks are hereby authorized and empowered, in their discretion, on the application in writing of the board of fire commissioners, to grant to them locations for apparatus houses of said department in any of the public places, parks, or squares in said city under their control, provided the same are so located and constructed as, in the judgment of the board granting such permission, will not disfigure or incumber the same, or interfere with the purposes of public use and recreation, but will tend to the protection of the public and their property.

1871, ch. 742, §13, Comp. 401. Locations in parks and places for fire apparatus houses.

§ 700. Real and personal property may be granted, devised, bequeathed, or conveyed to the mayor, aldermen, and commonalty of the city of New York, or to the board of commissioners of parks, for the purposes of the improvement or ornamentation of the Central park in said city, or for the establishment or maintenance, within the limits of said Central park, of museums, zoological or other gardens, collections of natural history, observatories or works of art, upon such trusts and conditions as may be prescribed by the grantors or donors thereof, and agreed to by the department of public parks; and all property so devised, granted, bequeathed, or conveyed, and the rents, issues, profits, income and increase thereof, shall be subject to the exclusive management, direction, and control of the said department of public parks, and except such surplus animals and duplicate specimens as said department may deem it best for the interest of said garden to dispose of by sale or otherwise, shall be

1859, ch. 349, §10, Comp. 501. Real and personal property conveyed in trust. 1861, ch. 88, §3, Comp. 501.

1863, ch. 26, §3.

1861, ch. 88, §3, Comp. 501.

forever properly protected, preserved, and arranged for public use and enjoyment, subject to such rules and regulations as said department may prescribe. The said department shall hereafter, with its annual report, make a statement of the condition of all the gifts, devises, and bequests of the previous year, and of the names of the persons making the same.

1865, ch. 26, §5,
Comp. 503.
1869, ch. 349, §7,
Comp. 500.
Commissioners
not create
debts.
Expenses.
1857, ch. 771, §3,
Comp. 498.

§ 701. None of the commissioners of public parks, nor any person, whether in the employ of said commissioners or otherwise, shall have the power to create any debt, obligation, claim or liability for or on account of said department, or the moneys or property under its control, except with express authority conferred at a meeting duly convened and held. Each commissioner shall be entitled to be reimbursed the amount of his personal expenses in visiting and superintending the said park, not exceeding the sum of three hundred dollars per annum.

1873, ch. 750,
§7, Comp. 186.

§ 702. The said department may apply a sum not exceeding thirty thousand dollars per annum, out of the moneys provided for the maintenance of the parks, for the keeping, preservation, and exhibition of the collections placed in the buildings referred to in sections six hundred and ninety-six and six hundred and ninety-seven of this act.

1867, ch. 697, §7,
Comp. 1012.
Subdivision of
plots, etc., by
owners.

§ 703. If, at any time after the filing of the maps showing the laying out of streets, avenues, roads and public squares, and places, by the department of public parks, the owner or owners of any plot of land bounded on all sides by streets, avenues or roads, and not laid out as and for a public square or place, shall desire to subdivide such plot and give public right of way into or through such plot, he, she, or they may do so, by submitting two maps, plans or surveys of such plot and of such proposed right of way, showing the width, which shall not be less than thirty feet, and the location, extent and direction of the same, and the proposed grade therefor, to the said department for its approval; and if the same shall be approved, and the owner or owners aforesaid shall immediately thereafter convey, in such form as shall be approved by said department, the title to the land required for such right of way, free and clear from all incumbrances, unto the mayor, aldermen and commonalty of the city of New York, in trust, as and for a public street, road or avenue, the same shall from that time be and become an opened public street, road or avenue, the same as if it had been laid out and opened as other streets, roads or avenues are or ought to be; and the maps, plans or surveys thereof, and of the grades therefor, shall be certified by one of the officers of the said department, to be designated by the board for such purpose, one of said maps shall be filed in and remain of record in the office of

Id. §2.

the commissioner of public works, and the other shall remain of record in the office of the department of public parks.

CHAPTER XIV.

DEPARTMENT OF STREET CLEANING.

§ 704. The department of street cleaning shall have exclusive charge of the cleaning of streets, and the removal of ashes and garbage in the city. The commissioner of street cleaning shall have power and authority, and is hereby charged with the duty of causing the streets of said city, which shall include all the public avenues, streets, lanes, alleys, places, wharves, piers and heads of slips therein, except such as are within any park under the control and management of the department of public parks, to be thoroughly cleaned and kept clean at all times, and of removing from said city, or otherwise disposing of, as often as the public health and use of the streets may require, all street sweepings, ashes and garbage, and of removing new fallen snow from leading thoroughfares and such other streets and avenues as may be found practicable. In no case shall the amount expended by said commissioner exceed the amount appropriated for his said department by the board of estimate and apportionment. Said commissioner shall file with the comptroller, monthly, a statement, under oath, showing the number and the names of all persons employed by him during the preceding month, and the amount paid to each of them and the particular kind of work in which each of them shall have been employed during such month.

1881, ch. 367, §§ 1, 2
Power and
duty of com-
missioner.

Monthly state-
ments.

§ 705. Said commissioner shall have power to engage and in his discretion discharge from time to time all such clerks, laborers, and other employees, and to fix their compensation, as shall be necessary and proper in executing the duties hereby imposed upon him, and may make, and from time to time alter rules and regulations for their government. But the compensation and wages of such clerks, laborers, and other employees shall not exceed the current market rate paid for similar services in private business. The said commissioner shall also have power to hire or purchase for his use as such commissioner, at current market prices, horses, carts, steam-tugs, scows, boats, vessels, machines, tools, and other property required for the economical and effectual performance of his said duty, or contract for the construction of any such tugs, scows, boats, vessels or machines, the title to which property so purchased shall be in the mayor,

Employees.

Id. § 3.
Steamtugs, etc

Contracts,
letting of, etc.

aldermen, and commonalty of the city of New York. All such hirings, or purchases or contracts, however, exceeding one thousand dollars in amount at any one hiring or purchase, shall be by contract let to the lowest bidder therefor, founded on sealed proposals or bids made in compliance with public notice advertised in the City Record; such notice to be published at least ten days prior to the opening of such proposals or bids. Whenever the said commissioner shall deem it necessary he shall, and he is hereby authorized so to do, sell at public auction any plant, material, horses, carts, scows, or other property used in any way in connection with the work of cleaning the streets. The said commissioner is hereby authorized to hire or lease suitable and sufficient offices for the transaction of the business under his charge, and also such stables and other buildings as may from time to time be necessary.

Id. §4.
Slips in docks
to be set apart
for use of de-
partment.

§ 706. The department, bureau or city officer, authority or authorities, which shall from time to time have the management and control of the public docks, piers and slips of the city, shall designate and set apart for the use of said commissioner suitable and sufficient slips, piers, and berths in slips, located as the said commissioner may require; and such as shall be convenient and necessary for his use in executing the duty hereby imposed upon him, excepting slips, docks, and piers on the East river set apart for the use of canal boats. The said commissioner may, with the approval, in writing, of the board of estimate and apportionment, lease piers, slips or wharves for the necessary purpose of the duties by this chapter conferred whenever suitable piers, slips or wharves owned by or under the control of the city cannot be obtained or are not set apart and designated as in this section provided.

Leasing of
piers, etc.

1881, ch. 367, §5.
Employees to
be uniformed.

§ 707. In the work of street sweeping and cleaning, and in the collection and removal of street sweepings, ashes and garbage, the men may be provided with some distinctive dress or portion thereof, or some badge designated by said commissioner, to be so worn that they shall be easily recognized as employees of the department.

Id. §6.
Special con-
tracts for col-
lection of gar-
bage, etc.

§ 708. Said commissioner may let out special contracts for periods not exceeding three years for the work of street sweeping and cleaning, or for the collection of ashes and garbage, or some part thereof, in particular districts to be designated for that purpose by the said commissioner, and the terms and conditions of which contracts shall have been first approved by the board of estimate and apportionment; provided that such contracts shall in all cases provide for their termination on ten days' notice by the commissioner, with the approval of the mayor.

§ 709. Said commissioner shall have power to enter into contracts with responsible persons and parties for the final disposition, for periods not exceeding five years, of all or any part of the said street sweepings, ashes or garbage, when collected; provided always that such contracts shall be approved both as to terms and conditions by the board of estimate and apportionment. All contracts shall be entered into on behalf of the city by the commissioner with adequate security. He shall advertise for proposals in such newspapers in the city as he may designate, not exceeding three in number, for ten days, to perform the work in such form and manner and on such terms and conditions as he may prescribe. Such proposals may be for the performance of all or such part or portion of the work as he shall require. Each proposal must be accompanied by a certified check on a solvent banking incorporation in the city, payable to the order of the comptroller for five per cent. of the amount for which the work bid for is proposed in any one year to be performed. From the proposals so received he may select the bid or bids, the acceptance of which will, in his judgment, best secure the efficient performance of the work, or he may reject any or all of said bids. On the acceptance of any bid by him, the checks of the unaccepted bidders shall be returned to them, and upon the execution of the contract the check of the accepted bidder shall be returned to him. The sureties upon all contracts hereby authorized shall be approved by the comptroller, and all contracts and bonds securing the same shall be approved as to form by the counsel to the corporation.

Id. §7.
Contracts for
final disposition
of garbage, etc.

§ 710. The said commissioner of street cleaning, with the approval of the mayor, may provide for cremating or burning street refuse or garbage, and may, through the commissioners of the sinking fund, lease or purchase land for the erection thereon of suitable crematories or furnaces.

Id. §8.
Cremating
garbage.

CHAPTER XV.

DOCKS, PIERS, HARBOR, PORT, AND WATERS.

Title 1.—The Department of Docks.

1871, ch. 574, §6.
Comp. 728.
Control of
wharves, piers,
slips, etc.

Repairing,
altering, clean-
ing, etc.

Regulation and
government
thereof.

1873, ch. 335, §88.
1871, ch. 574, §6,
as amended
1872, ch. 738, §1.
Comp. 728.

Effect of filing.

§ 711. The department of docks shall have exclusive charge and control, subject in the particulars hereinafter mentioned to the commissioners of the sinking fund of said city, of all the wharf property belonging to the corporation of the city of New York, including all the wharves, piers, bulkheads, and structures thereon, and waters adjacent thereto, and all the slips, basins, docks, water-fronts, land under water, and structures thereon, and the appurtenances, easements, uses, reversions, and rights belonging thereto, which are now owned or possessed by the said corporation, or to which said corporation is or may become entitled, or which said corporation may acquire under the provisions hereof, or otherwise; and said department shall have exclusive charge and control of the repairing, building, rebuilding, maintaining, altering, strengthening, leasing, and protecting said property, and every part thereof, and of all the cleaning, dredging, and deepening necessary in and about the same. Said department is also hereby invested with the exclusive government and regulation of all wharves, piers, bulkheads, and structures thereon, and waters adjacent thereto, and all the basins, slips and docks, with the land under water in said city not owned by said corporation. Said board shall not have power to change the exterior line of piers and bulkheads, as established by law.

§ 712. The plan or plans for the whole or any part of the water front of said city determined upon by the department of docks, adopted and certified to by the commissioners of the sinking fund and filed in the office of the department of docks in accordance with the provisions of the third subdivision of section ninety-nine of chapter one hundred and thirty-seven of the laws of eighteen hundred and seventy, as amended by section six of chapter five hundred and seventy-four of the laws of eighteen hundred and seventy-one, shall continue to be the sole plan or plans, according to which any wharf, pier, bulkhead, basin, dock, or slip, or any wharf, structure, or superstructure, shall be laid out or constructed within the territory or district embraced in and specified upon such plan or plans, and be the sole

plan or plans and authority for solid filling in the waters surrounding said city and for extending piers into said waters and erecting bulkheads around said city; and all other provisions of law regulating solid filling and pier and bulkhead lines in said waters enacted prior to April eighteenth, eighteen hundred and seventy-one, are to be deemed to be repealed whenever said plan or plans is or are inconsistent with such provisions of law. No wharf, pier, bulkhead, basin, dock, slip, or any wharf, structure, or superstructure shall be laid out, built, or rebuilt within such territory or district, except in accordance with such plan or plans; provided, that the said department of docks, with the consent and approval of the commissioners of the sinking fund, may from time to time change the width or location of the piers laid down on said plan or plans.

Docks, slips,
etc., to be built
in accordance
therewith.

§ 713. The commissioners of the department of docks are directed to cause to be made the necessary surveys, soundings, and other examination of the water front of all that part of Westchester county recently annexed to said city, from the easterly terminus of said water front at the mouth of the Bronx river, as already determined, and thence following the East river bank and the Harlem river, Spuyten Duyvil creek, and Hudson river to the northern terminus of said water front on the Hudson river as already determined, and to ascertain the capacities and requirements of said water front for adaptation to commercial uses, in like manner as the said board has already caused to be surveyed and examined the previously recorded water front of said city.

Resolution of
1874, Comp. 731.

§ 714. In executing the plan or plans mentioned in section seven hundred and twelve, the department of docks shall proceed, according to said plan or plans, to lay out, establish, and construct wharves, piers, bulkheads, basins, docks or slips in the territory or district embraced in such plan or plans, and in and upon or about the property owned by the mayor, aldermen and commonalty of the city of New York, without interfering with the property or rights of any other person, except so far as may be necessary to insure the safety and stability of the wharves, piers, bulkheads, basins or slips so to be constructed. And said department may commence and carry on such construction in sections of said territory or district, from time to time, so as not to seriously incommode the commerce of said city. The work of such construction under said plan or plans, unless ordered to be otherwise performed by the affirmative votes of all the members of the board, shall be performed as follows: The said board shall prepare full and minute specifications for such work, and advertise for proposals for doing said work under said plan or plans, and according to such specifications; proposals therefor

1871, ch. 574, §6,
Comp. 730.
Construction of
wharves,
basins, slips,
etc.

Work, how
performed.

Contract, how
executed and
what to con-
tain.

shall be signed by the bidders for said work and be sent to said board within the time specified in such advertisement, accompanied by a bond of the form set forth in said specifications, duly executed. The said board shall open said proposals on a day to be specified in such advertisement, and shall examine them, and shall award the contract for said work to the lowest responsible bidder complying with such plan or plans and specifications; such contract shall be executed by the said board on behalf of the mayor, aldermen, and commonalty of the city of New York, and shall always contain provisions as to the time of commencing and completing said work, and for the retention of at least one-fourth of the contract price until the completion of the said work, as security for its performance and for the forfeiture of said contract for non-performance of the terms thereof. Said board may, upon the forfeiture of any such contract, proceed to complete the work thereunder without contract, or may re-advertise for proposals to complete said work and award a new contract therefor in the same manner as provided herein for awarding the original contract; but no bidder under this section shall be entitled to a contract until his bid shall be approved and accepted by said board.

1871, ch. 574, §6,
Comp. 729.
Purchase of
wharf property
for city.

Commissioners
of sinking fund
to approve
agreement.

Proceedings to
acquire posses-
sion of wharf
property, etc.

§ 715. The department of docks is authorized to acquire, in the name and for the benefit of the corporation of the city of New York, any and all wharf property in said city to which the corporation of the city of New York then has no right or title, and any rights, terms, easements, and privileges pertaining to any wharf property in said city and not owned by said corporation; and said department may acquire the same either by purchase or by process of law, as herein provided. Said department may agree with the owners of any such property, rights, terms, easements, or privileges, upon a price for the same, and shall certify such agreement to the commissioners of the sinking fund, and if said commissioners approve of such agreement, said department shall take from such owners, at such price, the necessary conveyances and covenants for vesting said property, rights, terms, easements, or privileges in, and assuring the same to, the mayor, aldermen, and commonalty of the city of New York forever, and said owner shall be paid such price from the city treasury, as hereinafter provided. If the said department shall deem it proper that the said corporation should acquire possession of any such wharf property, rights, terms, easements, or privileges for which no price can be agreed upon between the owners thereof and the said department, the said department may direct the counsel to the corporation of said city to take legal proceedings to acquire the same for the mayor, aldermen, and commonalty of said city, and the said counsel to the corpo-

ration shall take the same proceedings to acquire the same as are by law provided for the taking of private property in said city for public streets or places, and the provisions of law relating to the taking of private property for public streets or places in said city are hereby made applicable, as far as may be necessary, to the acquiring of the said property, rights, terms, easements, and privileges, and said department is also empowered to acquire in like manner the title to such lands under water and uplands as shall seem to said department necessary to be taken for the improvement of the water front.

§ 716. When any of the wharves, piers, bulkheads, slips, docks and basins constructed under the provisions of this title relating thereto shall be open to the public use, the department of docks shall subject to the provisions of law regulate the charges for wharfage and dockage of all vessels admitted thereto, and may alter such charges from time to time as the public trade may authorize and the said department deem proper; provided that the rates of wharfage on boats navigating the canals of the State shall not be increased beyond the rates in force on April eighteenth, eighteen hundred and seventy-one, except as hereinafter specifically provided, and no restriction of the amount of wharf and slip room occupied by them shall be made; and said department may appropriate any of such wharves, piers, bulkheads, basins, or slips and such private wharves and piers as the owners thereof may apply to have so designated or appropriated to the sole use of special kinds of commerce or of steamboats, or of any other class or description of ships or vessels, and may restrain and prohibit any ship, steamboat, or any other vessel or water-craft whatever, from coming into, or lying, mooring, or anchoring at or within any wharf, pier, or slip of the said city, except such as may be so designated for their use respectively. Said department may, in the name and for the benefit of the corporation of said city, lease any or all of such property for a term not exceeding ten years, and covenant for renewal or renewals, at advanced rents, of such leases for terms of ten years each, but not exceeding in the aggregate fifty years. All leases other than for districts appropriated by said department to special commercial interests shall be made at public auction to the highest bidder. All leases made by said department shall contain covenants on the part of the lessees to make all needful repairs upon or about the property leased, and to maintain and keep in good condition the property leased during the term of the lease, under the penalty of forfeiture of such lease and damages; provided, that the said department may, in its discretion, make leases containing covenants that the lessees shall keep in good order and

1871, ch. 374, §6.
as amended
1872, ch. 738, §2.
Comp. 731.

Board to regulate rates of wharfage.
3 Rob. 282; 13
How. 280; 33 N.
Y. 251.

Rates for canal boats.

Wharves may be set apart for special kinds of commerce.

1830, ch. 222, §1
Comp. 1575.

Leases, how made.
39 N. Y. Sup. 62.

repair, at their own expense, the planking, string pieces, and mooring-piles of said wharves, piers, and bulkheads, reserving to said department of docks the rebuilding and renewing of the under-structures thereof.

1871, ch. 574, §6,
Comp. 731.

Rules for gov-
ernment and
care of prop-
erty.

To fix penalties
for violation
thereof.

How recovered.

Rents, fines,
etc., how dis-
posed of.

1871, ch. 574, §6,
Comp. 732.

Appointment
of secretary,
agents, clerks,
etc.

Annual
expenses.

President
elected
annually.

§ 717. The department of docks shall establish and enforce all needful rules and regulations for the government and proper care of all the property placed in its charge and under its control by the provisions of this title relating thereto, and shall furnish a copy of such rules and regulations to all the owners and occupants of such property, and shall make all needful orders and adopt all resolutions necessary to carry the provisions of this title relating thereto into effect, and fix penalties for disobeying such rules, regulations or orders, and shall publish such orders. The violation of or disobedience to any rule, regulation, or order of said department shall be a misdemeanor, punishable by a fine not exceeding five hundred dollars, or by imprisonment not exceeding thirty days, or by both such fine and imprisonment, on complaint of said department. The penalties aforesaid may be recovered by suit in the name of the mayor, aldermen, and commonalty of the city of New York, and such suit shall be prosecuted by the counsel to the said corporation when directed by the board; and no defendant in any such suit shall be permitted to plead ignorance of any such order, rule, or regulation. All rents, fines, and penalties and other money collected by said department or by its direction, shall belong to the treasury of said city, and be paid into the sinking fund for the redemption of the city debt. Said board shall hold stated meetings, to be specified in by-laws, which said board shall prepare and may alter from time to time.

§ 718. The said department shall have power to furnish and supply offices provided in accordance with law for the transaction of the business of the department. The board of dock commissioners shall appoint a secretary and such subordinate officers, clerks, and agents, as shall be necessary to assist said board in the performance of its duties and the exercise of its powers, and may fix the compensation of all persons so appointed; but the annual expenses of said department, for rent, furniture, supplies, and compensation of secretary and subordinate officers, clerks, and agents, shall not exceed in the aggregate the sum of one hundred thousand dollars. The president of said board shall be elected annually by the members thereof, and shall preside at all meetings of said board, and in case of his absence a temporary president may be elected by the board to preside. Any member may resign his office by written resignation sent to the mayor of the city. When any member of said

board shall cease to reside in the city of New York his office as a member of said board shall become vacant.

§ 719. The department of docks shall annually present to the mayor of said city a report containing: 1. The name, occupation, and compensation of all persons appointed and employed by said department. 2. A statement of the action of the board for the past year, classified with reference to the various subjects and duties which have engaged the attention of the board. 3. A list of the orders and rules made by said board, and a description of the contracts made by said department, the payments made by said department, and the purposes and amounts thereof, and the leases made by said department, for what term, at what rent, to whom, and for what property.

1871, ch. 574, §6.
Annual report
to mayor, what
to contain.

§ 720. The commissioners of the land office are hereby authorized to convey by proper instruments, in writing, necessary for the purpose, all the property, right, title, and interest of the people of the State of New York in and to the land under water used and taken by the said department for the construction of wharves, docks, piers, bulkheads, basins and slips under this title, whenever said commissioners may be required by said department to make such conveyance to the mayor, aldermen and commonalty of the city of New York.

Id. §6,
sub. 10, Comp.
733.
Lands under
water owned by
State.

§ 721. It shall be lawful for the department of docks to order and direct that the water near and adjoining any private wharf, pier, dock, bulkhead, or land within the limits of the said city, be deepened by excavating or removing the earth, mud, dirt, or sand therefrom, and to cause the same to be done in such places and at such times as the said department may deem necessary and proper.

1835, ch. 122, §1
Comp. 1584.
Water may be
deepened.

§ 722. In all cases where the mayor, aldermen and commonalty shall think it for the public good to enlarge any of the slips in the said city, they shall be at liberty and have full power so to do, and upon paying one-third of the expense of building the necessary piers and bridges, shall be entitled not only to the slipage of that side of the said piers which shall be adjacent to such slips respectively, but also to one-half of the wharfage to arise from the outermost end of the said piers.

1813, ch. 86,
§230.
Comp. 1540.
Corporation
may enlarge
slips.
11 N. Y. 461,
2 Edw. 230;
1 E. D. S. 394.

§ 723. The provisions of this title relating to the department of docks, its powers and duties, shall not affect the powers of the captain of the port and harbor masters of the port of New York, or those of the port wardens of the port of New York, as the same are defined by law, provided that the department of docks may remove or direct the removal of any vessel, raft or float from any place where the same shall be moored or anchored, whenever they shall deem such removal necessary for the con-

1871, ch. 574, §6.
Comp. 734.
Title not to
affect powers
of captain of
port, etc.
46 How. 24;
38 N. Y. Sup. 62.
Right to re-
move vessels
when anchored

venient prosecution of any work undertaken and being done by them.

Id.

§ 724. The terms "property," and "wharf property," whenever used in this title, shall be taken to mean not only all wharves, piers, docks, bulkheads, slips, and basins, but the land beneath the same, and all rights, privileges, and easements thereto.

1876, ch. 505, §4,
Comp. 348.
1876, ch. 169, §4,
Comp. 349.
1879, ch. 508, §4,
Comp. 350.

§ 725. The department of docks shall, upon the requisition of the department of public works, furnish free of charge, in the vicinity of such location as shall be designated by the department of public works, accessible, convenient, and safe berths for mooring the free floating baths, authorized by law, of which one shall be at Seventeenth street and East river.

1822, ch. 101,
Comp. 1195.
Markets may
be erected.

§ 726. It shall be lawful for the mayor, aldermen, and commonalty, in case they shall find it necessary, to cause public markets to be erected and kept over the waters of the East and North rivers adjoining to any of their docks or wharves; provided, that such markets shall not interfere with the flow of the waters of the said rivers, nor be built beyond the pier or bulkhead line established by law.

Proviso.

1881, ch. 447, §1.
Department of
docks to
furnish loca-
tion for bath.

§ 727. The department of docks shall, upon the requisition of the department of public works, furnish free of charge a suitable location in the Fifth ward whereat a public floating bath shall be permanently maintained and located, except when in winter quarters, and which location shall afford an accessible, convenient, and safe berth for mooring the said floating bath.

1881, ch. 367, §4.
Slips in docks
to be set apart
for use of de-
partment of
street cleaning.

§ 728. The department, bureau or city officer, authority or authorities, which shall from time to time have the management and control of the public docks, piers and slips of the city, shall designate and set apart for the use of the commissioner of street cleaning, suitable and sufficient slips, piers, and berths in slips, located as the said commissioner may require, and such as shall be convenient and necessary for his use in executing the duty imposed upon him, excepting slips, docks, and piers on the East river set apart for the use of canal boats.

Title 2.—The Harbor and Waters.

§ 729. No grants of land under water shall be made by the common council of the city of New York, or by any officer, board, or department thereof, beyond the exterior lines of the city, as fixed by an act of the legislature passed April seven-teenth, eighteen hundred and fifty-seven, entitled "an act to establish bulkhead and pier lines for the port of New York" as amended by subsequent acts, unless as expressly authorized by acts passed subsequent thereto.

1858, ch. 360, §
Comp. 1551.
Grants of land
under water
restricted.
See 1865, ch. 121,
See 1867, ch. 763.

§ 730. The department of public parks may, if it deem it necessary for the public interests, alter and amend any part or parts of the pier and bulkhead lines in Spuyten Duyvil creek and the Harlem river; and upon its filing in the office of the secretary of State a map or maps showing any alterations or amendments that it has made, the bulkhead lines so shown on such map shall become and be the established pier and bulkhead lines.

1868, ch. 288, §4,
Comp. 1548.
1871, ch. 531, §1,
Comp. 1019.
Bulkhead and
pier lines in
Harlem river
and Spuyten
Duyvil creek.

§ 731. Except as in this chapter otherwise provided, it shall not be lawful to erect any pier exterior to the bulkhead line established by law which shall exceed seventy feet in width, with intervening water spaces between such piers of at least one hundred feet; nor shall it be lawful to extend such pier or piers beyond the exterior or pier line nor beyond or outside of the sea wall established by law.

1837, ch. 763, §2,
Comp. 1544.
1868, ch. 288, §2,
Comp. 1548.
68 N. Y. 71;
7 Hun, 105.

§ 732. It shall not be lawful for any person to build, erect, or maintain any pier, bulkhead, or other structure, or to fill in with earth or other material, in the waters of the harbor of New York, beyond the exterior line defined and recommended by the commissioners for the preservation of the harbor of New York, and established in and by chapter seven hundred and sixty-three of the session laws of eighteen hundred and fifty-seven and the amendments thereof; and in case of the building or erection of any such pier, bulkhead, or other structure, whether now existing or hereafter erected, the board of commissioners of pilots shall notify the person or persons building, erecting, or maintaining the same, to remove the same within a time to be prescribed and specified in their notice; and in cases of failure to comply with such notice, the said board of commissioners of pilots shall have power to cause so much of such pier, bulkhead, or structure, as is beyond the exterior line so defined and established, to be forthwith removed, and the person or persons who built or maintained the same shall be liable to pay all expenses of such removal, to be recoverable by and in the name of the board of commissioners of pilots, and shall also pay a fine of twenty-five dollars a day for each and every day during which

1875, ch. 378, §52,
3, Comp. 1567.
Piers and other
structures,
erection of,
beyond exte-
rior line pro-
hibited.

Notice to
remove.

Removal by
commissioners
of pilots.
73 N. Y. 398.
68 N. Y. 71.
28 N. Y. 287.
1 Hun, 105.
5 Rob. 285.

Subsequent
acts of the
legislature not
affected.

1868, ch. 150, §1,
as amended
1872, ch. 487, §1,
Comp. 1548.
Proprietors of
land under
water may
erect piers, etc.

1876, ch. 188, §§1,
2, Comp. 1551.
Time for im-
proving lands
extended.

1860, ch. 522, §1,
Comp. 1566.
Port and har-
bor of New
York to be kept
clear of ob-
structions.
73 N. Y. 393; 68
N. Y. 71; 7 Hun,
105; 5 Rob. 285,
386; 26 N. Y. 287.

such obstruction shall remain after such notice, and until such pier, bulkhead, or other encroachments shall have been removed, as herein provided. This section shall not apply to piers or bulkheads built before the establishment of said exterior line. Nothing in this section contained shall apply to or affect any act of the legislature in relation to the bulkhead or pier lines of the harbor of New York, passed subsequently to April twenty-seventh, eighteen hundred and sixty.

§ 733. It shall be lawful for the proprietors of grants of land under water in the Harlem river, between the termination of the Third avenue and the East river, instead of building an exterior continuous bulkhead, as laid out by the harbor commissioners, to erect piers and wharves therein, and to excavate the slips between the same; but in no case shall any such pier or wharf be extended into the river further than the said exterior line, as fixed by the said harbor commissioners.

§ 734. The period of time fixed for the appropriation to the purposes of commerce by the construction of a dock or docks, and filling in the same, in all letters patent issued by the people of the State of New York to the owners of the adjacent upland for lands under water and between high and low water-mark in front of and adjacent to the lands of the said owners of the adjacent upland on the easterly shore of the Harlem river, is extended until two years after the time when plans for the improvement of said river shall have been or shall be completed by the proper authorities, and copies of such plans filed, one in the office of the register of the city and county of New York, and one in the office of the secretary of State at Albany.

§ 735. It shall not be lawful to obstruct or interrupt the navigation of the waters of the port and harbor of New York by any incumbrance whatever; and in case of any such obstruction or interruption by reason of any sunken vessel or other thing, the board of commissioners of pilots shall notify the owner or owners of such vessel or thing, if such owner or owners are within the city and county of New York, and are known to them; to remove the same within three days after such notice; and in case such owner or owners are not known to the said board of commissioners of pilots, or are not within the said city and county of New York, or fail to comply with such notice, the said board of commissioners of pilots shall cause the said obstruction to be removed, and the expenses of such removal shall be paid by the county within whose jurisdiction such vessel or thing shall be, and shall be recoverable from the owner or owners of such vessel or thing, by and in the name of the mayor, aldermen, and commonalty. Such expenses shall also be a lien on the vessel or thing so removed until paid.

§ 736. It shall not be lawful except in cases now provided by law, for any person to erect or drive in the soil under water in the harbor of New York, any poles for the purposes of fishing, where the water is of greater depth than six feet at mean low tide, under the penalty of five dollars for each pole erected or driven contrary to the provisions of this section; and it shall be the duty of the board of commissioners of pilots to cause the same to be removed.

1857, ch. 671, §13.
Comp. 1597.
Fish poles.

§ 737. No person shall fish with seines or any sort of nets, or set draws, or raise any seine or net in any part of the channel of the Hudson river north of Castle Garden in the city of New York, between the hours of six o'clock in the evening and six o'clock in the morning. Every person who shall violate any provision of this section shall be guilty of a misdemeanor, and shall be punished, on conviction, by imprisonment in a county jail not less than thirty days, or by a fine not less than twenty-five dollars, in the discretion of the court.

1845, ch. 31, §§1, 2, Comp. 1603.
Prohibition against nets.

Penalty.

§ 738. No person shall set or place, or cause to be set or placed, during the months of March, April, or May in any year in any of the waters of this State at or below the city of New York, any fike-net, gill-net, hoop-net, set-net, or any other net or weir, by means of any hedge, stake, stone, post, pole, anchor or any other fixture to extend into the channel of said waters, or to any greater distance from the shore, in any case, than twenty rods from the ordinary low water mark. Whoever shall violate the provisions of this section shall, for every offense, forfeit the sum of one hundred and fifty dollars for the use of the poor of the county in which such offense shall be committed, to be sued for in the name of the people by the district attorney of any county bordering on the waters on which the offense shall have been committed, to whom notice shall first be given of the commission of such offense.

1 R. S. ch. 20,
title 10, §16,
Comp. 1604.
Obstructions at
and below New
York.

§ 739. It shall not be lawful for any person to set or use, for the purpose of taking or capturing fish, a fike or set-net, or other net, in the waters of the Harlem river, or of the East river, or the adjacent waters, or of the confluent brooks within five miles, in any direction from the Middle Gate, so-called, in said East river, or in any of the adjacent waters or confluent brooks of the main shore and located between the said Middle Gate and Fort Schuyler so far as the same are within the county of New York. Any person violating the provisions of this section shall be deemed guilty of a misdemeanor, and shall, on conviction, be subject to a fine of not less than twenty-five dollars or more than one hundred dollars, or imprisonment for not less than ten days or more than thirty days.

1872, ch. 436,
§§1, 2
as amended
1877, ch. 898,
Comp. 1606.
Taking of fish
in Harlem river
and other
waters.

Penalty.

1876, ch. 376, §1.
Comp. 1800, 1801.
Dumping in
river prohib-
ed.

§ 740. It shall be unlawful for any person or persons, by means of any boats, scows, or vessels, or in any other manner whatever, to cast, throw, dump, or deposit any mud, earth, soil, ashes, refuse, stone, rock, or other solid substance or materials, into the waters of the North or Hudson river within the city of New York, or to place, construct, or build any contrivance, substance, or thing whatever, within said waters, which shall or may operate in any manner whatever to lessen or decrease the depth of such waters, or in any manner whatever interfere with navigation therein, or imperil or jeopardize the free and safe navigation thereof, or tend in any manner thereto.

1880, ch. 367, §10.
Snow and ice
may be dumped
from ends of
piers.

§ 741. It shall be lawful for the commissioner of street cleaning to cause to be dumped, or authorize to be dumped, snow and ice from the ends, or near the ends, of any piers, into the waters of the East and North or Hudson rivers. But no dead animals, carrion, street sweepings, garbage, or any putrid, offensive, decaying, or refuse vegetable or animal matter shall be deposited in violation of sections seven hundred and forty-nine, and seven hundred and fifty.

1876, ch. 376,
§§2, 3, Comp.
1800, 1801.
Penalty.

§ 742. Any person designedly doing any act forbidden by the provisions of the last section but one shall be deemed guilty of a misdemeanor and liable to imprisonment for a term of not more than sixty days, or to a fine of not more than one hundred dollars, or both, in the discretion of the court, for each and every offense, and may be arrested by the authorities of said county. The courts in said county shall have power and jurisdiction to try such offender or offenders. Any marshal, policeman, sheriff, under or deputy sheriff, or alderman of the city, finding or seeing and person or persons offending against the provisions of the said section may and it is hereby declared to be his duty to arrest, without warrant, such person or persons so offending, and them to take before the nearest magistrate to be dealt with for such offense according to law. Any person offending against the provisions of the said section shall also forfeit and pay a penalty of fifty dollars for each offense, to be recovered by suit or action at law in any court having jurisdiction. Such action may be brought in the name of the mayor, aldermen, and commonalty, and the sum of money recovered in such action shall be for the benefit of the poor of said county.

Further pen-
alty.

1876, ch. 376, §4.
Comp. 1801, as
amended 1880,
ch. 215, §1.
Act not to ap-
ply to filling in
of land under
water granted
by State, etc.

§ 743. The sections seven hundred and forty and seven hundred and forty-two shall not apply to the depositing of substances upon the building of wharves or piers upon, or the filling in of land under water, granted by the people of the State of New York to any person or persons, provided a permanent and substantial bulkhead be first properly and securely built, inclosing the whole area of any such pier or wharf proposed to be so built or constructed; nor shall such

sections apply to the sweeping, washing, or cleaning from the decks of the canal boats, freight, passenger, or pleasure boats, or vessels, of such dirt only as collects naturally thereon from the use thereof by human beings using the same for transportation or pleasure, nor the hauling of fire from the furnace grate of any steamboat having staterooms above the main deck, provided no coal or ashes shall be dumped from the ash-box of said steamboats; nor to the setting of shad-poles in the shad season, nor to the use of any other devices or contrivances for the purpose of fishing in any season of the year, but no such setting of shad-poles or devices for fishing shall be allowed below the northerly line established by the harbor commissioners of the city of New York; nor shall said section apply to throwing overboard the refuse and waste matter which ordinarily accumulates in and about canal boats engaged in the transportation of goods and merchandise. But this section shall not be construed to authorize the throwing in said water of food, or any contrivance or device in which food may be kept, carried, or preserved.

Nor to sweeping, washing, etc., of boats, etc.

Nor to hauling of fire from furnace grate.

Nor to setting of shad-poles, etc.

Nor to waste matter on canal boats.

§ 744. In case any mud-scow from which mud, earth, soil, ashes, refuse, stone, rock, or other solid substance shall be cast, thrown, dumped, or deposited as specified in section seven hundred and forty, shall be towed by a steamboat or tug to the point at which such substance shall be thrown, dropped, cast, dumped, or deposited, the master of such steamboat or tug, and the contractor using the same, shall be jointly and severally liable to a penalty of two hundred dollars for each and every such offense, recoverable in an action by said mayor, aldermen, and commonalty, in any court having jurisdiction of an action for penalties not exceeding two hundred dollars, for the benefit of the poor of said county.

1876, ch. 376, §5.
Comp. 1602.
Steamboats towing mud-scows.

§ 745. Any person who shall accept any money or other valuable thing by way of compromise for the violation of any of the provisions of sections seven hundred and forty or seven hundred and forty-four, without the approval of the court, shall be deemed guilty of a misdemeanor.

Id. §6.
Compromising violation a misdemeanor.

§ 746. It shall not be lawful to throw, or cause to be thrown into the waters of the port of New York, within the city and county of New York, or at any point opposite to or adjacent to the shores of the city and county of New York, on the Hudson river, or below Throg's Point, on the East river, nor in the bay inside of Sandy Hook, any cinders or ashes from any steamboat, under the penalty of one hundred dollars for each and every offense, recoverable by the board of commissioners of pilots, and for such penalty the steamboat from which such cinders or ashes were thrown, its master and owner shall be liable; and such offense is hereby made a misdemeanor, and every person

1857, ch. 671, §1, as amended.
1872, ch. 409, §1.
1873, ch. 148, §1, Comp. 1593.
Cinders or ashes not to be thrown into waters of port of New York.
4 Daly, 358; 5 Daly, 391.
Penalty.

committing such offense may, upon being found guilty thereof, be punished therefor by a fine not exceeding one hundred dollars, or by imprisonment for sixty days, or by both, at the discretion of the court, upon the complaint of said commissioners, their agent, or any other person; and any steamboat having any pipe or opening so constructed below the water-line as to admit of putting ashes or cinders through the same into the water, shall be liable to a fine of fifty dollars for each and every day such pipe or opening shall exist, to be recoverable by the said commissioners in an action against the owners of such steamboat. It shall be lawful for either of said commissioners of pilots, or the agent of said board of commissioners of pilots, at any time in the day time, to go on board of and examine any steamboat in the harbor of New York, for the purpose of ascertaining whether any such pipe or opening exists on such steamboats.

Examination of
steamboats.

1875, ch. 148, §3
Comp. 1008.

§ 747. The various scows employed by the city of New York, or by the contractors, for removing the ashes, garbage, and refuse of said city, while moored at the various dumping-boards of said city, are hereby designated and required to receive directly any and all ashes, garbage, or rubbish from any steam tug or steam vessel in the harbor of New York, and in addition to the foregoing provisions, two or more scows shall be located at one or more of the said dumping-boards on the East and North rivers respectively, or at such other points as the commissioners of pilots may direct, for the special use of boats and vessels wishing to discharge ashes, garbage, or rubbish; and the ashes, garbage, and rubbish received by all the said scows shall be disposed of as part of the refuse of and at the expense of the said city.

Scows to re-
ceive ashes,
garbage, etc.,
from steam
vessels

1857, ch. 671, §7,
as amended
1876, ch. 414, §1,
Comp. 1595.
Mud, sand, etc.,
how disposed
of.

§ 748. When any slip, basin, or shoal in the port of New York shall be dredged or excavated, it shall be the duty of the person or persons causing the same to be dredged, to cause the sand, mud or other materials so dredged, to be towed to sea at a point at least three miles outside of Sandy Hook, or deposited at some place above high-water mark, or to be deposited behind a bulkhead for filling, and any person willfully violating the provisions of this section shall forfeit and pay to the board of commissioners of pilots the sum of five dollars for every cubic yard removed, not so disposed of, one-half of which shall be retained by the commissioners.

Penalty.

1881, ch. 346, §§1
2, 3, 4.
Street sweep-
ings, etc., not to
be dumped in
waters of port
of New York,
etc.

§ 749. No street sweeping, dredging from slip or other places, earth, dirt, stone ballast from vessels, ashes, swill, garbage, dead animals or portions thereof, decayed or other vegetables or fruits, bedding or refuse, or rubbish of any kind, or any articles, shall be dumped or deposited in the waters of the port of New York, or in the rivers or waters adjoining the city of New York,

or in the waters of New York harbor, or New York bay, or in the Hudson river, the East river, Long Island sound, and waters adjacent thereto west of the middle ground shoal, or in the navigable waters lying between the said sound and the East river, nor in the waters bounding or adjoining the port or harbor of New York, or the upper bay; nor shall any article or thing that is liable to convey disease, or is putrid, unwholesome, noxious, or dangerous to the public health, or dangerous to navigation, be cast, thrown, placed, deposited, or suffered or permitted to become in said waters, or placed or suffered to be placed where said water would ordinarily or naturally rise upon, take or receive them, excepting, however, the ordinary discharge of sewers constructed under the authority of the laws of the State within which they are located. The above provisions shall apply to lands under the waters as well as to the latter. This section shall not apply to the erection or construction of any pier, dock, bulkhead, or the making, by filling in, in a proper manner, of any land, in case where the erection of such piers, docks or bulkheads, or making, by filling in, of land is now authorized by the laws of the State. The prohibition to dump solid material in said port, harbor, or rivers, or to make and construct works to change and improve channels shall not apply to works undertaken by the government of the United States in the port and harbor of the city of New York, or authorized by the laws of the State of New York. The violation of any of the provisions of this section shall be deemed a misdemeanor, and the person so violating the same shall, upon conviction, be punished by the infliction of a fine of not less than fifty, or more than one thousand, dollars for each offense, or by imprisonment as is now provided in the case of misdemeanors, or both. Any pilot, shore inspector, harbor master or port warden of the port of New York, the police of the cities of New York and Brooklyn, or any city marshal or constable within the said district, and upon the waters mentioned in this section, shall have power to arrest all persons and to deliver into custody any person or persons taken in the act of violating any of the provisions of this section.

Substances dangerous to health not to be cast in waters.

Not to apply to construction of piers, etc.

Violation of this act a misdemeanor.

Pilots, etc., may make arrests.

§ 750. It shall not be lawful for any person or persons to sail, navigate, or move, or to aid, direct, or assist in sailing, navigating, or moving, or to be employed upon, or to accompany any boat or vessel containing any such animal or material as is named in the preceding section, through or upon the waters of that part of New York bay known as the narrows, and lying between Forts Wadsworth and Hamilton, or any part of said bay south of said Narrows, with the intent or for the purpose of throwing or casting such animal or material, or any portion

1880, ch. 463, §2. Not lawful to sail any boat containing any dead animal for purpose of casting same into the ocean without permit.

thereof, into the ocean or sea, or in any portion of the waters mentioned in the last preceding section, without a permit, in writing, first obtained therefor from the inspector appointed or to be appointed under chapter six hundred and four of the laws of eighteen hundred and seventy-five, and the amendments thereof, who shall have the power of granting such permits from time to time as he shall deem proper, and which shall not be inconsistent with the last preceding section, and having such regard to the course and condition of the then existing winds and tides as in his judgment shall best tend to prevent the subsequent return or deposit of any such contents of said boat or vessel within the waters of this State, if cast upon the waters beyond the jurisdiction thereof.

1845, ch. 201, §1.
Comp. 608.
Refuse from
gas works.

§ 751. It shall not be lawful for the manufacturers of gas, nor for any other person, to throw or deposit any gas-tar or refuse of the gas-houses or factories in the county of New York, into any public waters, river, or stream, nor into any sewer or stream running or emptying into any such public waters, river or stream; and whoever shall offend against the provisions of this section shall be deemed guilty of a misdemeanor.

Offenders
guilty of a
misdemeanor.
1880, ch. 461, §6.
As to refuse
matter from
streets.

§ 752. It shall not be lawful for any person or persons to sail, navigate, or move, or to aid, direct, or assist in sailing, navigating, or moving, or to be employed upon or to accompany any boat or vessel engaged in the transportation of any dead animal, carrion, offal, or any putrid, offensive refuse, decaying or decayed vegetable or animal matter, or any garbage or sweepings taken from the streets of any city, upon the waters referred to in the last section but one, unless the same be propelled or moved by steam power; and it shall not be lawful for any steam vessel to tow or carry any of the articles mentioned in this section, unless its name be plainly painted on each side.

1875, ch. 604, §4.
Comp. 1598.
Misdemeanor
and punish-
ment thereof.

§ 753. Any person offending against the provisions of sections seven hundred and fifty and seven hundred and fifty-two shall be deemed guilty of a misdemeanor, and liable to imprisonment for a term of not less than six months and to a fine of not less than five hundred dollars, in the discretion of the court, for each and every offense, and may be arrested by the authorities of either of the counties of New York, Kings, Queens, Westchester or Richmond. The courts in said counties respectively shall have power and jurisdiction to try said offenders, whether the offense be committed within their respective counties or not. Out of any moneys received for fines, such sum or sums shall be allowed and paid for the expenses and disbursements attending the arrest, as the court or magistrate may deem reasonable and proper.

What courts
have jurisdic-
tion.

§ 754. Consent has been given and the United States is authorized to lay and use water and gas pipes and telegraph lines under Buttermilk channel, from the city of Brooklyn to Governor's Island in New York harbor. Any person who shall willfully do, or cause to be done, any act or acts whereby any of said gas or water pipes, or telegraph lines, or the materials thereof or any matter or thing appertaining to the same, shall be stopped, obstructed, impaired, weakened, injured or destroyed, shall, on conviction thereof, be deemed guilty of a misdemeanor, and be punished by a fine not exceeding five hundred dollars, or imprisonment in the county jail not exceeding one year, or both, at the discretion of the court before which the conviction shall be had. Any master or other person in charge or command of any ship, boat, or vessel, who shall, after notice, come to anchor over said lines or pipes, or in the neighborhood thereof, and thereby injure or molest them, or shall not quit such anchorage on notice, or shall knowingly place any drag or net over said pipes or lines, so as to interfere with them, shall be deemed guilty of a misdemeanor, and punished as herein provided. Such notice of the general location of said pipes and lines may be either oral or by a sign conspicuously placed, either at the Brooklyn or Governor's Island termination of said pipes and lines.

1879, ch. 323, §§ 1, 2, 3, Comp. 1611.

Penalty for willful injury, etc.

Anchorage of vessels, or placing drags or nets over.

Notice of location.

§ 755. Whenever any vessel navigating that part of the Hudson river which is north of the Battery, or navigating the harbor of New York, embracing the bay as far as the village of Castleton, on Staten Island, and thence up the East river as far as the south point of Blackwell's Island shall be at anchor in the night time, the master of such vessel shall cause her peak to be lowered, and shall cause a good and sufficient light to be shown in some part of her rigging, at least twenty feet above her deck, and from her taffrail, under the penalty of fifty dollars, to be sued for and recovered against the master of such vessel, by the commissioners of charities and correction. And in case such penalty cannot be collected from the master, the owners of such vessel shall be liable therefor, in the same manner as if they were sureties of such master. In addition to the foregoing penalty, it shall not be lawful for the master or owner of any vessel offending against the provisions of the said section to recover damages for any injuries such vessel may sustain in consequence of any collision growing out of a non-compliance with the provisions of this section.

1 R. S. ch. 20, title 10, § 12, Comp. 1590.
Vessels to show lights in night time.
1839, ch. 314, Comp. 1591.
1 R. S. ch. 20, title 10, § 12, Comp. 1590.

When owners of vessels liable for.

1839, ch. 349, Comp. 1591.
Damages.

§ 756. Any person mooring any vessel to any of the buoys or beacons placed in the harbor of New York by the United States light-house board, or in any manner hanging on with a boat or vessel to any such buoy or beacon in said harbor, shall forfeit

1857, ch. 671, § 12, Comp. 1596.
Buoys and beacons.

and pay to the commissioners of pilots the sum of fifty dollars for every offense; and any person who shall willfully remove any such buoy or beacon, shall be deemed guilty of a misdemeanor, and in addition to the punishment which may therefor be inflicted, he shall forfeit and pay to the said commissioners the sum of two hundred and fifty dollars for every offense.

1848, ch. 321,
§§1, 2, Comp.
1592.
Boats to run in
the centre of
the river.
Speed.

§ 757. All the steamboats passing up and down the East river, between the Battery at the southern extremity of the city of New York and Blackwell's Island, shall be navigated as near as possible in the centre of the river except in going into or out of the usual berth or landing place of such steamboat, and shall not be propelled at a greater rate of speed than eight miles an hour below Corlears Hook, nor ten miles an hour above Corlears Hook. The master, pilot, or engineer of any steamboat violating either of the provisions of this section, shall be deemed guilty of a misdemeanor; and in addition thereto, the master, pilot, and engineer of such steamboat shall respectively be liable to the penalty prescribed in section nine, title ten, chapter twenty of the first part of the Revised Statutes, to be sued for and applied as therein directed.

1858, ch. 361, §5,
Comp. 1590.
Penalty.

1878, ch. 378,
§§1, 2, Comp.
1592.
Provision as to
navigation
during fog.

§ 758. It shall not be lawful for any steamship, vessel, ferry boat, steamboat, or other water craft of what name or description soever, to use the waters in and adjacent to the port and the harbor of the city of New York, and within the jurisdiction of the State of New York, for any of the purposes of navigation during and at the time of the existence of a fog thereon, rendering such navigation hazardous, and requiring care to prevent collisions and other accidents incident to navigation, unless such steamship, vessel, ferry boat, steamboat, or other water craft shall, through the owner or owners, pilot, master, or other person in charge thereof, comply with the following requirements: It shall be the duty of the owner, master, pilot, or other person in charge of any such steamship, vessel, ferry boat, steamboat, or other water craft, if, and while moving in said waters during the existence of any such fog, in the day or night time, to use a fog horn, steam whistle, bell, electrical light, or other cautionary light or signal, and to blow said horn or whistle, and ring said bell continuously while said steamship, vessel, ferry boat, steamboat, or other craft is or may be in motion; and such movements only shall be had by either such steamship, vessel, ferry boat, steamboat, or other water craft within the limit, time, and in the manner in the next section provided.

Signals during
a fog.

Movements
limited.

1878, ch. 378, §3,
Comp. 1592.
Crossing line of
ferry.

§ 759. It shall not be lawful for any steamship, vessel, ferry boat, steamboat, or other water craft to navigate the said waters during the existence of a fog thereon, as fully expressed in the last section, to cross the line of any ferry now or hereafter

maintained to and from the city of New York, without slowing, and, in case of extreme danger, coming to anchor before so doing; and such crossing shall not then be had directly, but shall be made laterally to the course of said ferry; and the speed of such steamship, vessel, ferry boat, steamboat, or other water craft in motion at such time shall not exceed four miles per hour.

Speed of
vessels.

§ 760. Any violation of the provisions of the two preceding sections shall be chargeable directly upon the owner, master, pilot, or person in charge of any such steamship, vessel, ferry boat, steamboat, or other water craft, and any such owner, master, pilot, or other person in charge of any such steamship, vessel, ferry boat, steamboat or other water craft, offending against or violating any of the provisions of such sections, shall be deemed guilty of a misdemeanor, and, upon conviction, punishable by a fine not exceeding two hundred and fifty dollars, or imprisonment not exceeding one year, or by both such fine and imprisonment.

Id. §4.
Penalty.

§ 761. The port and harbor of New York shall, for the purposes of the three preceding sections, be deemed and held to extend to and cover the waters of New York bay to and including quarantine, East river and Harlem river to Harlem bridge, and the waters of Long Island sound to Flushing bay; the North or Hudson river to the city of Yonkers, and the Kill Von Kull to Shuter's Island, so far as the same are within the jurisdiction of the State of New York.

Id. §5.
Extent of port
and harbor of
New York.

§ 762. When a steamboat shall be employed for making an excursion of pleasure from the city of New York, on the Sound or on the Hudson river, it shall be the duty of the master of such boat to require of each male person who takes passage with him for such purpose, and who has arrived at the age of discretion, to give his name and the place of his abode, namely: the number of the house, street, and city in which he resides, and on his refusal so to furnish his name, not to permit him to take passage on such boat; and from the names so obtained, it shall be the duty of such master to make a list, and within five days after such excursion, to file the same in the office of the clerk of the city and county of New York, paying him for filing the same the sum of six cents; and it is hereby made the duty of such clerk to receive, file, and safely keep such list in his office, marking on the back thereof the name of the steamboats, the date of the excursion, and the time of filing the same; provided that this section shall not apply to any regularly plying ferry boat. For a neglect by the master to comply with the direction, in this section contained, he and the owner or owners of the boat, or either of them, shall be sub-

1835, ch. 350,
§§1, 2,
Comp. 1608.
Regulations
respecting em-
ployment of
vessels for
excursions.

Penalty.

ject to a penalty of one hundred dollars, to be sued for in any court having cognizance of the offense, by any person aggrieved in the matter, the one-half of which penalty, when recovered, to be paid to the plaintiff in such suit, and the other half to the overseers of the poor of the town in which the person aggrieved shall reside.

Id. §3.
Penalty for
trespassing.

§ 763. Each and every person engaging in such excursion, who shall invade and enter upon the lands and possessions of any owner or occupant residing on or near the banks of the Sound or of the Hudson river, and shall roam about the grounds, orchards, and gardens, and help himself to fruit or whatever may seem desirable, without previous leave obtained, shall, in addition to an indictment for the trespass, and to a personal action for damages, incur the penalty of ten dollars, to be sued for by the party aggrieved, one-half thereof, when collected, to be paid to such party, and the other half to the overseers of the poor.

1857, ch. 571, §14,
Comp. 1597.
Lighters.

§ 764. It shall be the duty of the owner or owners of every lighter engaged exclusively in the business of lightering in the port of New York, to cause the name and place of business of one of the owners thereof to be painted in letters at least three inches long on the sides of his lighter; and in default thereof he shall forfeit and pay to the board of commissioners of pilots the sum of five dollars; and for each and every week the owner of said lighter shall neglect to cause his name so to be painted on his lighter, after being notified, he shall forfeit and pay the sum of ten dollars.

1862, ch. 265,
§§1, 2,
Comp. 1603.
License
required for
ballast lighters.

§ 765. No boat, lighter, or vessel shall be employed in the business of carrying ballast in the port of New York, unless licensed for that purpose under the provisions of this section; and any person using or employing any boat, lighter, or vessel for the purpose of carrying ballast in the port of New York, not duly licensed as in and by this section provided, or of which the license shall have expired, shall pay a fine of twenty-five dollars for each and every day on which such boat, lighter, or vessel is so used or employed, to be recovered by the captain of the port of New York, and the amount of such fine shall be a lien on the boat, lighter, or vessel so used or employed. The captain of the port of New York shall have power to license such boats, lighters, or vessels as he shall, after inspection by him or under his direction, deem suitable for the purpose of carrying and discharging ballast, such licenses to be issued to the owner thereof, and to continue in force for one year from the date thereof, and shall be renewable from year to year.

Who may
grant license.

Id. §3.
Fees.

§ 766. The sum of ten dollars shall be paid to the said captain of the port of New York for every license issued under the last

section, and the sum of five dollars for every renewal thereof. All license fees, fines, and penalties collected under the last section shall be paid over and accounted for by the captain of the port of New York in like manner as is now required by law in respect to fees, fines, and penalties collected or recovered by him.

§ 767. It shall not be lawful for any person to take oysters from the Harlem river, in the county of New York, in any way or manner during the months of June, July, or August in any year. Every person who shall offend against the provisions of this section shall incur a penalty of thirty dollars, and, in addition, the value of the oysters so taken for each offense, and which may be sued for and recovered before any of the justices of the district courts, or in any court having cognizance of the same, in the name of any person who will sue therefor; one-half of any sum which may be recovered and received under this section shall be paid into the treasury of the city, and the other half shall be for the use of the person who may sue for the same.

1851, ch. 478,
§§1, 2,
Comp. 1600.
Prohibition.
Penalty.

§ 768. Any owner or lessee of the lands adjoining the waters of the Harlem river may have the privilege of planting oysters in said waters in front of their said property or lands, where there are none now planted by others than themselves, and after putting up a plain sign in full view of the waters in which such oysters are planted, stating the fact that this is the private oyster bed of (here name the owner), no person other than such owner or his legal representative shall take up oysters on the ground thus designated by said sign, under a penalty of fifty dollars for each offense, and shall forfeit, in addition, the sum equal in amount to the value of the oysters; and the penalties and forfeitures thus imposed may be sued for and recovered in like manner as in the last preceding section.

Id. §3.
Private oyster
beds.

§ 769. Any marshal, upon summary process, to be issued by any justice of a district court, may seize and take possession of all implements, boats, or other vessels found in the possession of and used by any person violating the provisions of the two preceding sections; and such marshal shall make return thereof and hold the same in like manner as upon all attachments issued by district court justices.

Id. §4.
Arrest and
prosecution of
offenders.

§ 770. Persons prosecuted under the three preceding sections may be arrested and held to bail in the same manner as upon warrants issued by justices of the peace; and whenever a recovery shall be had for any violation of the provisions of any of such sections, execution shall be issued thereon immediately. The said justice shall indorse upon such execution the cause for which such judgment was rendered; and in case no goods or

Id. §5.
Arrest, how
made, and ex-
ecutions, how
issued.

chattels can be found to satisfy such execution, the marshal having the same shall commit such defendant to the jail of the county, and shall deliver to the keeper thereof a certified copy of such execution and indorsement; by virtue of which such keeper shall detain such defendant for a period not exceeding sixty days, without allowing him the benefit of the liberties of such jail.

1857, ch. 671, §17,
as amended
1858, ch. 226, §7,
1863, ch. 412, §2,
Comp. 1597.
Fines and pen-
alties.

§ 771. All fines and penalties incurred and recovered under sections seven hundred and thirty-six, seven hundred and forty-six, seven hundred and forty-eight, seven hundred and fifty-six, seven hundred and sixty-four and seven hundred and seventy-seven to seven hundred and eighty-three inclusive, shall be paid, except as otherwise provided in this title, into the treasury of this State, and the treasurer shall keep account of the same. All the fines and penalties incurred under such section shall be recoverable by and in the name of the commissioners of pilots. In all cases where the fines and penalties prescribed by them are made liens upon property, they shall be enforced by attachments issued by the court where the proceedings for the recovery of such fines and penalties shall be pending, to the officers to whom executions of such courts are issued, and shall be enforced and discharged in like manner as attachments against property of non-resident debtors; and the said commissioners shall have power, in their discretion, to remit any fines or penalties incurred under such sections. For the purposes of said sections, all piers and bulkheads shall be deemed and taken as extending into the adjoining streets in the rear thereof, a distance of six feet.

1857, ch. 671, §18,
as amended
1858, ch. 226, §7,
1863, ch. 412, §2,
Comp. 1597.
Fines and pen-
alties.

Title 3.--Piers, Slips and Wharfage.

1875, ch. 249, §§1,
2, Comp. 1581.
Sheds for pro-
tection of prop-
erty upon piers
or bulkheads,
erection of.

§ 772. Whenever any person, company, or corporation, engaged in the business of steam transportation, shall be the owner or lessee of any pier or bulkhead in the city of New York, and shall use and employ the same for the purpose of regularly receiving and discharging cargo thereat, it shall be lawful for such owner or for such lessee, with the consent of the lessor, to erect and maintain, upon such pier or bulkhead, sheds for the protection of property so received or discharged; provided they shall have obtained from the department of docks, in said city, a license or authority to erect or maintain the same, and subject to the conditions and restrictions contained in such license or authority. All sheds or structures erected or maintained upon any wharf or pier in the city of New York, under any license or permit granted by the department of docks in said city, are declared to be lawful structures, subject to the terms and conditions of the license or permit authorizing the same.

Sheds already
erected de-
clared lawful.

Such sheds shall be constructed subject to the regulations and under the authority of the superintendent of buildings and the department of docks. Any such owner or lessee of a pier, or of a pier or bulkhead, or of a part thereof in respect to which the department of docks shall have granted the license or authority herein specified, shall be entitled to the use of the premises so owned or leased by them, and no vessel shall be placed in any berth on such pier or bulkhead, or part thereof, without the consent of such owner or lessee, during the continuance of such license.

Owner or
lessee, rights of.

§ 773. It shall not be lawful to interfere with the free public use as now enjoyed, or except as in this act otherwise specially provided, to permit the use as a dumping ground, of any wharf, pier, or slip, or bulkhead adjacent thereto in the navigable waters of the East river in the city of New York, which has heretofore been used for the loading and discharging of sailing vessels regularly employed in foreign commerce, and having a draft of more than eighteen feet of water, and the provisions of the preceding section shall not apply to any such wharf, pier, or slip; provided, however, that nothing in this section contained shall apply to any wharf, pier, slip, or bulkhead covered by any shed permitted by said department of docks, existing on May sixth, eighteen hundred and seventy-five, or reserved for a special use by any law then in force.

Id. §3.
Free public use
of wharf, pier,
or bulkhead in
East river, not
to be interfered
with.

§ 774. Nothing in the two preceding sections contained shall be construed to authorize the erection or maintainance on any pier of any storehouses, booths, shops, or other structures than the sheds mentioned in the last section but one, with the proper doors and gates appertaining thereto, nor to impair any powers conferred upon the department of docks, except as provided by said section.

Id. §4.
Storehouses,
booths, or shops
not to be erect-
ed on any pier.

§ 775. Whenever any pier, wharf, or bulkhead in the city of New York shall be incumbered or obstructed in its free use by merchandise, or by any material not affixed to such pier, wharf, or bulkhead, the captain of the port or any of the harbor masters under his direction, is hereby authorized and directed to require the owner, consignee, or person in charge of such merchandise or material, to remove the same without any unnecessary delay; and the said captain of the port shall have power, from time to time, to make such general rules and regulations, and give such directions, as will secure dispatch in loading and unloading vessels, and the prompt removal of the same from the piers as soon as their cargoes shall be discharged or the loading of the same shall be completed, and also such as shall be necessary to prevent any unnecessary accumulation of freight or merchandise upon any pier or wharf while any vessel shall be engaged in receiving or discharging her cargo; provided, how-

1867, ch. 256, §1.
Comp. 1582.
Powers of cap-
tain of the port,
or harbor
master.

ever, that the power hereinbefore conferred shall not be exercised in reference to any obstruction or incumbrance upon any pier or wharf occupied by any regular line of steamboats or steamships, or by any railroad company, except upon the written request of the occupant or lessee of such pier or wharf.

Id. §2.
Provisions
against delays.

Expenses to be
paid by owner.

§ 776. Whenever the captain of the port, or any harbor master, shall make any order or give any direction in pursuance of the power conferred by the last preceding section, it shall be the duty of the owner, consignee, or person in charge of the merchandise, property, or vessel in reference to which such order or direction is given, to comply with the same without any unreasonable delay, or, in default thereof, the said captain of the port, or any of the harbor masters under his direction, may employ such laborers and assistance as may be necessary to carry out such order or direction, by the removal of the material, merchandise, or vessel in reference to which the same was given; and all expenses actually and necessarily incurred in effecting such removal shall be paid by the owner, consignee or person in charge of the material, merchandise, or vessel so removed, and the amount thereof shall be a lien upon the same in favor of the captain of the port, and may be enforced in the same manner and by the same proceedings as liens on vessels are enforced by warrant of attachment, under and pursuant to the provisions of the act entitled "an act to provide for the collection of demands against ships and vessels," passed April twenty-fourth eighteen hundred and sixty-two, and all the provisions of said act, so far as the same can be made applicably, shall apply to the liens hereby created; and the said captain of the port shall, for the purposes of this section, be deemed a creditor of said owner, consignee, or person in charge, and each of them, for the amount of the expenses so incurred, and may have and maintain an action against them, or either of them, to recover the same.

1857, ch. 671, §8,
as amended
1858, ch. 226, §5,
Comp. 1595.
5 Rob. 366.
23 Hun, 346.

§ 777. Whenever any pier or bulkhead in the port of New York shall be incumbered, or its free use interfered with by merchandise, lumber, or any other obstruction, whether of loose material, or built upon or affixed to the pier or bulkhead without authority of law, it shall be the duty of the commissioners of pilots to notify the person or persons placing or keeping such merchandise or obstruction on such pier or bulkhead, to remove such merchandise or obstruction within twenty-four hours after such notice; and in case of failure to comply with such notice, and to remove such merchandise or obstruction, the person or persons so notified shall be liable to pay to the commissioners the sum of twenty-five dollars for each and every day during which such merchandise or obstruction shall remain on such

pier or bulkhead; and the commissioners shall have power, in their discretion, to remove any merchandise so incumbering any pier or bulkhead, and to store the same in a warehouse or other proper receptacle; and a sum equal to the amount of the expenses of removal, together with the charges for storage, shall be paid by the owner of such merchandise to the commissioners, and shall be a lien on such merchandise until paid.

§ 778. Whenever merchandise discharged from a vessel and incumbering a bulkhead or pier, in the port of New York, shall not, in the judgment of the said commissioners, be of sufficient value to pay the expenses of removal and storage, as provided in the last preceding section, such merchandise shall be removed and stored at the expense of the owner, consignee, or master of the ship or vessel from which such merchandise shall have been discharged.

1867, ch. 256, §9.
Comp. 1582.
Removal and
storing of mer-
chandise.

§ 779. At the expiration of every six months it shall be the duty of the said commissioners to advertise, for one week in three or more daily papers in the city of New York and Brooklyn, the merchandise which they have stored and which has remained unclaimed, setting forth the marks and numbers of each package, the description of the merchandise, the pier whence such merchandise was removed, and the date of such removal, and if any of such merchandise so advertised shall remain thereafter unclaimed for three months, the said commissioners may then sell the same, after further advertisement for one week in three or more of the daily papers published in the cities of New York and Brooklyn, at public auction, to the highest bidder, to pay the expenses which have been incurred on such merchandise, and the remainder shall be held in trust by the said commissioners for the owner or owners thereof, for twelve months, when if not claimed it shall form part of the fund of said commissioners.

Id. §10.
Advertising of
unclaimed mer-
chandise.

§ 780. It shall not be lawful for any person to throw any ballast, rubbish, ashes, or cinders from any vessel or lighter, or from any pier or bulkhead, into the waters of the docks, slips, or harbor of the port of New York, nor from out of any vessel upon any pier or bulkhead in the port of New York, unless to discharge the same immediately into carts. Any person who shall violate any of the provisions of this section shall forfeit and pay to the board of commissioners of pilots the sum of five dollars, and the further sum of two dollars for each and every cubic yard of material so thrown out; and such fine shall be a lien, until paid, upon any vessel from which such material shall be thrown or discharged.

1867, ch. 671, §3.
as amended
1858, ch. 226,
Comp. 1594.
See 1876, ch.
376, §1.

§ 781. Every person willfully throwing or putting any stones, earth, shavings, night-soil, dirt, or rubbish into any dock or slip,

Id. §4.
Dumping
stones, etc.

in the port of New York, or on any public pier or bulkhead in said port, shall forfeit and pay to the said commissioners the sum of twenty-five dollars for each offense; one-half of all fines recovered under this section shall be for the use of the person or persons lawfully entitled to the occupation of such docks, slips, or piers. Whenever any horse or cart shall be employed in dumping stones, earth, shavings, night-soil, dirt, or rubbish into any dock or slip, or on any public pier of the port of New York, the fine prescribed by this section shall be a lien, until paid, upon such horse and cart.

Id. §5,
as amended
1858, ch. 226, §3.

§ 782. It shall be the duty of every owner, master, mate, or other person having the charge or management of any vessel from which, or into which ballast, coal, cinders, stones, bricks, tiles, dung, or any loose matter or thing, shall be conveyed, to fasten canvas, mats, or cloths between the pier or bulkhead and vessel, and between vessels lying alongside each other, to or from which such ballast or other loose materials shall be conveyed, so as to prevent any part thereof falling into the waters of the port; and if to be landed, to place such material at least two feet from the edge of the pier or bulkhead, under the penalty of ten dollars for the violation of any of the provisions of this section, and for each offense, to be paid to the said commissioners; and such penalty shall be a lien, until paid, on the vessel from which such ballast, coals, cinders, stone, brick, tiles, dung, or other matter or thing, shall be so conveyed or landed.

1857, ch. 671, §6,
Comp. 1594,
as amended
1858, ch. 226, §4.

§ 783. It shall not be lawful to throw iron, lead, or any metal, or any package of merchandise weighing over fifty pounds, from a vessel on to a pier in the port of New York, without adequate protection to the planking of such pier, under the penalty of five dollars for each offense, to be paid to the said commissioners, and to be a lien on the vessel until paid; nor shall it be lawful for any person or persons to draw, or cause to be drawn, or trail or drag over any pier in the port of New York, any anchor or blocks of stone, otherwise than upon carts, rollers, wheel carriages or sleds, under the penalty of five dollars for every offense, one-half of which shall be for the use of the person or persons lawfully entitled to the occupation of such pier.

1860, ch. 254, §4,
Comp. 1585.

§ 784. The board of commissioners of pilots, organized under the act entitled "an act to provide for the licensing and government of the pilots, and regulating pilotage of the port of New York," passed June twenty-eighth, eighteen hundred and fifty-three, are authorized to require the owner or owners of any pier, wharf, or bulkhead, in the city of New York, to keep the same free from dirt and in good repair, and to keep the slips properly dredged; and whenever, in the judgment of the said

board, it shall be necessary so to do, they shall cause written notices, signed by the president or secretary of said board, to be served upon the owner or owners, or collector of wharfage of any pier, wharf, or bulkhead, or the slip adjoining the same, on which cleaning, repairs or dredging are required by said board, specifying the nature and extent of the cleaning, repairs, or dredging so required; and in case of failure of the owner or owners so notified to comply with the terms and requirements of such notice within thirty days after such notice as to repairs, and within ninety days as to dredging, they shall be liable to a penalty of five dollars per day for every day they shall neglect to comply with such notice.

§ 785. The notice required in the last preceding section to be given to the owners of wharves or piers by the board of pilot commissioners, shall be given by serving the same on one or more of such owners personally, or by serving the same on such person as receives or collects, on behalf of such owner or owners, the wharfage of the wharf, pier or bulkhead, in respect to which the notice is given.

Id. §5.
Notice, how
given.

§ 786. Piers numbers ten, eleven, and the west side of pier number twelve, East river, inclusive, shall continue to be set apart, kept and reserved for the use and accommodation of the regular packet lines of sailing vessels, propellers, and barges, which on April thirteenth, eighteen hundred and fifty-seven, occupied berths on piers nine, ten, eleven, and west side of pier twelve, and running to and from the following ports, to wit: Boston, Massachusetts; Portsmouth, New Hampshire; Philadelphia, via the Delaware and Raritan canal; Wilmington, North Carolina; Savannah, Georgia; Charleston, South Carolina; Apalachicola, Florida; Mobile, Alabama; New Orleans, Louisiana; and Matagorda, Texas. It shall be the duty of the harbor masters or other officer or officers of said city who are now or hereafter shall be empowered by law, or by any ordinance of said city, to regulate and station ships and vessels in the harbor of said city, and they shall have power to prohibit and prevent all other boats, ships, and vessels from entering any of the slips, or approaching or lying at any of the wharves between the piers named in this section during the period therein specified, when such slips and wharves shall be required for the use and accommodation of the vessels, boats, and barges mentioned in this section. In case any boat, ship, or vessel, not entitled, according to the provisions of this section, to use said waters, shall have entered any of said slips, or shall be lying at any of said wharves during the period aforesaid, when such slip or wharf shall be needed or required for the use or accommodation of any of the vessels, boats, or barges specified in this section, it shall

1857, ch. 367, §§1.
Comp. 1576.

Duty of harbor
masters.

be the duty of the said harbor masters or other officer or officers, and they shall have power forthwith to remove such boat, ship, or vessel from such slip or wharf, so far as may be necessary to accommodate the vessels, boats, and barges entitled, as aforesaid, to the use of said slip or wharf:

1867, ch. 367, §8.
Comp. 1576.
Penalties.

§ 787. Any person resisting or refusing or neglecting to comply with any order or direction of any harbor master or other officer, given in pursuance of the preceding section, in relation to any boat, ship, or vessel under the command or control of such person, and any person whatever who shall resist or oppose any harbor master or other officer in the performance of the duties of his office under such section, shall, for every such offense, forfeit and pay the sum of fifty dollars, to be recovered with costs of suit, in the name of the treasurer of the New York Hospital, before any court having cognizance thereof. Said fines, when collected, shall be paid to said treasurer for the use of the hospital.

Id. §4.
Rights of
owners.

§ 788. Nothing contained in the two preceding sections shall be construed to take away or in any respect impair the right of the owner or lessee of any wharf, slip, or pier mentioned therein, from demanding, collecting, and receiving the usual and legal rates of wharfage for all boats, ships, and vessels using or occupying said wharves, slips, and piers, nor shall anything therein be construed to prevent the free use of the waters and wharves specified in the preceding section, when such waters and wharves are not required for the use and accommodation of the vessels, boats, and barges described in section seven hundred and eighty-six, nor be construed so as to prevent any vessel from hauling alongside of any vessel, barge or canal boat, to land cargo or to receive cargo, or from laying alongside of such vessel, boat, or barge a sufficient length of time to transfer cargo with all reasonable dispatch, nor shall anything therein contained be so construed as to disturb or interfere with any rights of occupancy granted by ordinance or resolution of the mayor and common council of the city of New York in favor of any of the lines of river barges or canal boats aforesaid, before April thirteenth, eighteen hundred and fifty-seven.

1867, ch. 945, §1.
Comp. 1577.
Boundaries.
32 Barb. 533.

§ 789. All that part of the water adjacent to the wharves of the city of New York, from the east side of pier number two to and including the west side of pier number ten, East river, shall hereafter, from the twentieth day of March to the thirty-first day of December in each year, be set apart, kept, and reserved for the exclusive use and accommodation of canal boats and barges engaged in the business of transporting property on the Hudson river, or coming to tide-water from the canals of the State, arriving in said city from the city of Albany or any port

or place north or west thereof, and for the use of lighters engaged in loading or unloading such boats or barges; and it shall be the duty of the captain of the port of New York, and of the harbor masters thereof, and of all officers who now are or hereafter shall be empowered by law, or by any ordinance of the city of New York, to regulate or station ships and vessels in the harbor of said city, to prohibit and prevent all other boats, ships, or vessels from entering any of the slips or approaching or lying at any of the wharves between the piers aforesaid, during the period above specified, when such slips or the wharves connected therewith shall be required for the use and accommodation of the canal boats and barges hereinbefore mentioned; and the said captain of the port, or other officers aforesaid, shall assign such other accommodations for said canal boats and barges in other parts of the port of New York, as may, from time to time, be necessary in receiving or discharging their cargoes.

Duty of the
captain of the
port of New
York.

§ 790. It shall be lawful for the proprietors of any regular line of canal boats or barges using the waters within the limits aforesaid, or any other limits to which they may be assigned, as provided in the preceding section, to erect and maintain upon any of the piers or wharves adjacent thereto, suitable derricks, to be used by said proprietors and their employees in loading or unloading said canal boats and barges; no derrick or structure so erected shall be deemed an obstruction or incumbrance upon such pier or wharf, within the meaning of any statute or ordinance prohibiting the incumbering or obstructing any such pier or wharf, or authorizing the removal of obstructions or incumbrances upon the same.

Id. §2.
Power to
erect derricks.

§ 791. Whenever any portion of the waters mentioned in the last section but one shall be occupied by any ship or vessel not entitled to occupy the same according to the provisions of that section, and the proprietor or proprietors or person in charge of any of the canal boats or barges specified in said section shall desire to use the berth or slip occupied by such ship or vessel, it shall be the duty of the captain of the port, or of the harbor master in charge of the district embracing said waters, upon the request of the proprietor or consignee or person in charge of said canal boat or barge, forthwith to remove such ship or vessel so far as may be necessary to accommodate such canal boat or barge. If the captain of the port or harbor master to whom such request is made, shall neglect or refuse to comply with the same, he shall, for each such neglect or refusal, forfeit and pay to the proprietor or proprietors of the canal boat or barge in reference to which request was made, the sum of fifty dollars, to be sued for and recovered by and in the name of such propri-

Id. §3.
Occupation of
waters by ships
not entitled
thereto.

etor or proprietors, for his or their use and benefit, in any court of competent jurisdiction.

1867, ch. 945, §4,
Comp. 1577.
Penalties for
refusing to
obey the orders
of harbor
master.

§ 792. Any person in command or charge of any ship or vessel which the captain of the port or harbor master is authorized and required to remove, as specified in the last preceding section, who shall neglect or refuse to comply with any order or direction of the said captain or harbor master in reference to the removal thereof, or who shall resist or obstruct the removal of such ship or vessel, shall, for every such offense, forfeit and pay the sum of fifty dollars, to be sued for and recovered, with costs, by and in the name of the captain of the port, in any court of competent jurisdiction.

1868, ch. 261, §1.
Comp. 1579.
Lease of slips
and wharves.
See 1875, ch.
249; 33 N. Y. 251.

§ 793. Whenever the owners of any wharves and slips on the East river which were on April fifteenth, eighteen hundred and fifty-eight, occupied by any of the steamboat lines hereinafter mentioned, or the owners of any wharves and slips on the North river, in the city of New York, shall lease the same to the owners or proprietors of any of the regular lines of steamboats theretofore established, and engaged in the business of transporting passengers and freight between the city of New York and any place on the Hudson river, or between the city of New York and any place on Long Island sound, or the rivers emptying into Long Island sound, or between the city of New York and any place on Narragansett bay, or the bays adjacent thereto, or any such steamboat running to and from the city of New York, the wharves and slips so leased shall, during the term of the lease, be kept and reserved for the exclusive use and occupancy of the steamboats of the lessees, to the extent necessary for the conducting and doing the business in which they are engaged.

Id. §2.
Duties of har-
bor masters.

§ 794. It shall be the duty of the harbor masters, or of any officer or officers of said city who are now or hereafter shall be empowered, to regulate and station ships and vessels in the harbor of said city; and they shall have power to prohibit and prevent all other boats, ships, and vessels from entering any of the slips, or approaching or lying at any of the wharves so let or leased under the provisions of the last preceding section, when such slips and wharves shall be required for the use and accommodation of the lines of steamboats owned by the persons hiring or leasing the same. In case any boat, ship, or vessel not entitled, according to the provisions of said section, to use said wharves or slips, shall have entered any of said slips, or shall be lying at any of said wharves, during the continuance of such letting or lease, when such slip or wharf shall be needed or required, for the use or accommodation of any of the lines of steamboats referred to in the preceding section, it shall be the duty of

the said harbor masters, or other officer or officers, and they shall have power forthwith to remove such boat, ship, or vessel, from such slip or wharf, so far as may be necessary to accommodate the steamboats entitled as aforesaid to the use of said slip or wharf.

§ 795. Any person resisting or refusing or neglecting to comply with any order or direction of any harbor master or other officer, given in pursuance of the two preceding sections, in relation to any boat, ship, or vessel under command or control of such person, and any person whatever who shall resist or oppose any harbor master or other officer in the performance of the duties of his office, under said sections, shall, for every such offense, forfeit and pay the sum of fifty dollars, to be recovered, collected, and applied in the manner provided for the recovery and application of the penalties imposed and specified in section seven hundred and eighty-seven.

Id. §3.
See 1857, ch. 367;
1867, ch. 945;
1858, ch. 72.

Persons resist-
ing, etc.

§ 796. Nothing in the three preceding sections contained shall be so construed as to give any owner or owners of wharves and slips, designated in sections seven hundred and eighty-six and seven hundred and eighty-nine, power to let or lease the same, or any of them, for the purpose designated in such three preceding sections. Nor shall anything therein contained be construed to prevent the free use of wharves and slips so let or leased under the provisions of section seven hundred and ninety-three, when such wharves and slips are not required for the use and accommodation of the steamboats for whose use and accommodation they were hired or leased.

1858, ch. 261, §7,
Comp. 1579.
Construction as
to power to let
or lease.
1857, ch. 367.

§ 797. The docks, piers, and bulkheads on the Hudson river, from Gansevoort street to Little West Twelfth street, shall be set apart by the department of docks, or such department as shall have control thereof, and kept for the use of boats barges, and other vessels engaged in the business of transporting farm and garden produce, at such rates of wharfage as have been, or shall be, lawfully established.

1880, ch. 191, §3.
Docks, etc., to
be set apart.

§ 798. It shall be lawful to charge and receive, within the city of New York, wharfage and dockage at the following rates, namely: From every vessel that uses or makes fast to any pier, wharf, or bulkhead within said city, or makes fast to any vessel lying at such pier, wharf, or bulkhead, or to any other vessel lying outside of such vessel, for every day or part of a day, except as hereinafter provided, as follows: From every vessel of two hundred tons burden and under, two cents per ton, and for every vessel over two hundred tons burden, two cents per ton for each of the first two hundred tons, and one-half of one cent per ton for every additional ton, except that, save as hereinafter provided, vessels known as North river barges, market boats and

1872, ch. 330, §1,
as amended
1877, ch. 315, §1,
Comp. 1586.
Wharfage and
dockage, rates
of.

1813, ch. 86, §212.

barges, sloops employed upon the rivers and waters of this State, and schooners exclusively employed upon the rivers and waters of this State, shall pay for every such vessel under the burden of fifty tons, at the rate of fifty cents per day; for every such vessel of the burden of fifty tons, and under the burden of one hundred tons, at the rate of sixty-two and a half cents per day; for every such vessel of the burden of one hundred tons, and under the burden of one hundred and fifty tons, at the rate of seventy-five cents per day; for every such vessel of the burden of one hundred and fifty tons, and under the burden of two hundred tons, at the rate of eighty-seven and a half cents per day; for every such vessel of the burden of two hundred tons, and under the burden of two hundred and fifty tons, at the rate of one hundred cents per day; for every such vessel of the burden of two hundred and fifty tons, and under the burden of three hundred tons, at the rate of one hundred and twelve and a half cents per day; for every such vessel of the burden of three hundred tons, and under the burden of three hundred and fifty tons, at the rate of one hundred and twenty-five cents per day; for every such vessel of the burden of three hundred and fifty tons, and under the burden of four hundred tons, at the rate of one hundred and thirty-seven and a half cents per day; for every such vessel of the burden of four hundred tons, and under the burden of four hundred and fifty tons, at the rate of one dollar and fifty cents per day; for every such vessel of the burden of four hundred and fifty tons, and under the burden of five hundred tons, at the rate of one hundred and sixty-two and a half cents per day; for every such vessel of the burden of five hundred tons, and under the burden of five hundred and fifty tons, at the rate of one hundred and seventy-five cents per day; for every such vessel of the burden of five hundred and fifty tons, and under the burden of six hundred tons, at the rate of one hundred and eighty-seven and a half cents per day; for every such vessel of the burden of six hundred tons and upwards, to pay twelve and a half cents, in addition for every fifty tons in addition to the rate last mentioned, for every day such ship or vessel shall use or be made fast to any of the said wharfs; but no boat or vessel over fifty tons burden shall pay less than fifty cents for a day or a part of a day, and the class of sailing vessels now known as lighters shall be at one half the first above rates. Every other vessel making fast to a vessel lying at any pier, wharf, or bulkhead within said city, or to another vessel outside of such vessel, or at an anchor within any slip or basin, when not receiving or discharging cargo or ballast, one-half the first above rates; and from every vessel or floating structure, other than those above named, or used for transportation of freight or passengers.

1872, ch. 320, §1,
as amended
1877, ch. 315, §1,
Comp. 1587.

1879, ch. 510, §1,
Comp. 1588.

double the first above rates, except that floating grain elevators shall pay one-half the first above rates; and every vessel that shall leave a pier, wharf, bulkhead, slip, or basin, without first paying the wharfage or dockage due thereon, after being demanded of the owner, consignee, or person in charge of the vessel, shall be liable to pay double the rates established by this section.

§ 799. Vessels of two hundred tons burden and under which shall be actually engaged in the clam or oyster trade, and which shall make fast to any pier, wharf, or bulkhead within said city, shall pay one and one-half cents per ton per day, and every such vessel, which shall make fast to another vessel lying at any such pier, wharf, or bulkhead, or to any vessel lying outside of such vessel, or that shall anchor within any slip or basin in said city shall pay one cent per ton per day; provided, however, that no vessel shall pay less than twenty-five cents nor less than one day's wharfage, nor shall more than one day's wharfage be charged unless for a continuous use of the pier, wharf, bulkhead, slip, or basin of more than twenty-four hours.

1879, ch. 511, §1.
Comp. 1589.
Rates of wharfage on canal boats, and vessels carrying bricks.

§ 800. Every canal boat, and any vessel engaged in freighting brick on the Hudson river occupying a berth next to any pier, wharf, or bulkhead in the city of New York, and engaged in delivering cargo upon said pier, wharf, or bulkhead, or receiving cargo therefrom, shall pay wharfage at the rate of fifty cents for every day or part of a day while so engaged; but when unloaded such canal boat or vessel aforesaid shall pay wharfage at the rate of thirty cents per day or part thereof; but no canal boat or vessel lying in any slip between two adjacent piers shall be required to pay full wharfage to the owners or lessees of both said piers for the same day, notwithstanding such canal boat or barge may, during said day have changed her location between said piers; provided that they shall pay one-half rates to each owner or lessee when they have changed their locations between said piers; and the word day, whenever it occurs in this and the last preceding section, shall be taken and construed to mean twenty-four hours.

§ 801. It shall be lawful for the owners or lessees of any pier, wharf or bulkhead within the city of New York, to charge and collect the sum of five cents per ton on all goods, merchandise, and materials remaining on the pier, wharf or bulkhead owned or leased by him, for every day after the expiration of twenty-four hours from the time such goods, merchandise and materials shall have been left or deposited on such piers, wharf or bulkhead, and the same shall be a lien thereon.

1872, ch. 320, §2.
as amended
1875, ch. 405, §2.
Comp. 1587.
Rates per ton for goods, etc., remaining on pier or wharf.
77 N. Y. 448.

§ 802. It shall be the duty of every person owning or having charge of any pier, wharf, bulkhead or slip in the city of New

1879, ch. 108, §1.
Comp. 1587.

Section regulating rates to be printed on wharfage bills.

Penalty for receiving illegal rates.

1873, ch. 148, §2.
Comp. 1802.
Port of New York, what waters included therein.

1862, ch. 487, §3.
Comp. 1589.
Duties of captain of port.

Id. §4.
Regulations as to the port.

1871, ch. 35, §1.
Comp. 1578.
Duty of canal collector to collect annual fee on canal boats.

York, to cause to be printed on the back of all bills, presented by them for wharfage, section seven hundred and ninety-eight of this act, and the owner, consignee or person in charge of any vessel shall not be required to pay the wharfage or dockage due on such vessel, unless upon his demand the bill printed in conformity with this section is presented to him. Any person owning or having charge of any pier, wharf, bulkhead or slip as aforesaid, who shall receive for wharfage any rates in excess of those now authorized by law, shall forfeit to the party aggrieved treble the amount so charged as damages, to be sued for and recovered by the party aggrieved.

§ 803. The port of New York, wherever the same is mentioned or referred to in titles two and three of this chapter, except sections seven hundred and fifty-eight to seven hundred and sixty-one, inclusive, shall be deemed and taken to include all the waters of the North river or East river, adjacent to or opposite to the shores of the city and county of New York, as the boundaries of said city and county of New York are now fixed by law.

§ 804. The captain of the port shall, in addition to the piers and waters especially assigned thereto by law, assign such accommodations for canal boats and barges engaged in the business of transporting property on the Hudson river, or coming to tide water from the canals of the State, or arriving in said port from Albany or any place north or west thereof, as may from time to time be necessary in receiving and discharging their cargoes.

§ 805. No vessel, other than canal boats, barges or lighters receiving or delivering property from or to said canal boats or barges, shall use or enter into for the purpose of using any part of the port of New York set apart for the use of canal boats and barges, without the written consent of the captain of the port had and obtained therefor, and then only between the first day of January and twentieth day of March in each year, and when not occupied by canal boats, under a penalty of one hundred dollars for every day that such vessel shall remain in said part of said port so set apart, after being notified to leave by the captain of the port or a harbor master, and said penalty shall be a lien upon any such vessel, and be enforced by proceedings against it, instituted by and in the name of the captain of said port according to the provisions of the laws of this State concerning attachments against vessels.

§ 806. The collector of canal tolls for the city of New York shall not give permits or clearances to canal boats navigating the waters of this State, until the captain or master of said canal boat has paid or satisfied the annual fee of one and one-quarter dollars due the harbor masters of the port of New York,

and imposed by the laws of this State; which fees may be paid to the said collector of canal tolls for said harbor masters.

§ 807. Each harbor master shall have power, within the district assigned to him, subject to the other provisions of this act, to provide and assign suitable accommodations for all ships and vessels, and regulate them in the stations they are to occupy at the wharves or in the stream, and to remove from time to time such vessels as are not employed in receiving or discharging their cargoes, to make room for such others as require to be more immediately accommodated for the purpose of receiving or discharging their cargoes, and shall have power to determine as to the fact of their being fairly and in good faith employed in receiving or discharging their cargoes, and shall have authority to determine how far and in what instance it is the duty of the master and others having charge of ships and vessels to accommodate each other in their respective situations. And if any master or any person having charge of any vessel, canal boat, barge or lighter, shall refuse or neglect to move his vessel, canal boat, barge or lighter when ordered to do so by the captain of the port, or by a harbor master, or shall resist or forcibly oppose said officers in the discharge of their duties, such master or persons so refusing, neglecting, resisting or opposing, shall, for every such offense, forfeit and pay the sum of fifty dollars, to be recovered with costs of suit, by and in the name of the captain of the port, before any court having cognizance thereof.

1862, ch. 487, §7.
Comp. 1571.
Powers of harbor masters.
7 Cow. 349; 1 E. D. S. 588; 38 N. Y. Supr. 62; 46 How. 24.

§ 808. Any person who shall falsely represent himself to be a harbor master, or wrongfully perform the duties of harbor master, shall be deemed guilty of a misdemeanor, and, upon conviction thereof, shall be imprisoned in the county jail for a term not exceeding sixty days, and fined, in the discretion of the court, a sum not exceeding twenty-five dollars. The captain of the port shall have power to designate some harbor master as his deputy, who may, during his absence, or in case of a vacancy in his office, perform all the duties belonging to the office of captain of the port, and the acts of said harbor master, so performed, shall be valid and binding.

Id. §9.
False representations prohibited.

Id. §6.
In what case harbor master to act as captain of port.

§ 809. It shall be the duty of the captain of the port, or a harbor master, whenever required by the captain, owner, or consignee of any vessel, or any person having charge of any vessel, to show a copy of chapter four hundred and eighty-seven of the laws of eighteen hundred and sixty-two, or of sections eight hundred and seven and eight hundred and eight of this act to such captain, owner, or consignee, and no person shall be fined for a violation of said sections until that has been done.

1862, ch. 487, §15.
Comp. 1572.
Copy of act to be shown.

§ 810. It shall be the duty of the harbor masters and pilots of the port of New York to report to the commissioners of pilots

1857, ch. 671, §15.
Comp. 1597.

Violations.

all violations of sections seven hundred and thirty-six, seven hundred and forty-six, seven hundred and forty-eight, seven hundred and fifty-six, seven hundred and sixty-four and seven hundred and seventy-seven to seven hundred and eighty-three, inclusive, which may come to the knowledge of said harbor masters or pilots, or which may be made known to them by complaint or otherwise.

1858, ch. 295, §1.
1874, ch. 349, §2,
Comp. 1874.
Floating docks
to be used for
repair of
vessels.

§ 811. It shall be lawful for the floating docks of the New York Balance Dock Company and of the New York Floating Dry Dock Company, to be used, with the consent of the owners of the piers or bulkheads respectively occupied for such use, or of the persons entitled to collect wharfage for such piers or bulkheads, for the purpose of taking up ships and vessels for repair, coppering, or finishing, in the manner heretofore practiced in the port of New York; subject to the existing authority, by ordinance, to regulate the use of the slips, piers, and wharves of said city.

CHAPTER XVI.

TAXES AND ASSESSMENTS.

Title 1.—Taxes.

1873, ch. 335, §87.
Comp. 555.
1859, ch. 302, §6,
Comp. 556.

§ 812. The commissioners of taxes and assessments may regulate and abolish the subordinate offices and bureaus, as shall seem most advantageous to the public service. The office or offices shall be in one of the public buildings or elsewhere in said city as may be procured according to law and assigned by the board of aldermen, and shall be kept open during the usual days and hours, as the other offices are by law required to be kept open, for the transaction of business. The books, maps, assessment rolls, and other papers pertaining to the office of commissioners of taxes and assessments shall continue in the custody and control of the commissioners, and shall continue to be public records, and, at all reasonable times, shall be open to public inspection.

1859, ch. 302, §3,
Comp. 556.
Deputy tax
commissioners.

§ 813. The commissioners of taxes and assessments shall appoint persons, to be known as deputy tax commissioners, who shall perform, under their direction and supervision, such duties as the commissioners shall prescribe. They shall hold their office during the pleasure of the said commissioners.

1859, ch. 302, §7,
Comp. 556.

§ 814. It shall be the duty of the deputy tax commissioners, under the direction of the commissioners of taxes and assessments, to assess all the taxable property in the several districts

that may be assigned to them for that purpose by said commissioners, and they shall furnish to them, under oath, a detailed statement of all such property showing that said deputies have personally examined each and every house, building, lot, pier, or other assessable property, giving the street and ward map number of such real estate embraced within said districts, together with the name of the owner or occupant, if known; also, in their judgment, the sum for which such property, under ordinary circumstances, would sell, with such other information, in detail, relative to personal property or otherwise, as the said commissioners may, from time to time, require. Such deputies shall commence to assess real and personal estate on the first Monday of September in each and every year.

§ 815. The said commissioners shall appoint a surveyor from one of the city surveyors, whose duty it shall be to make the necessary surveys and corrections of the ward maps, and also all new maps which may be required for the more accurate assessment of real estate. He shall hold his office at the pleasure of the commissioners.

1850, ch. 302, §5
Comp. 556.
Surveyor.

§ 816. No new surveys or maps of the several wards of the said city except of the Twenty-third and Twenty-fourth wards as now authorized by law, shall be prepared for the use of said commissioners, except under the authority of the board of aldermen.

1860, ch. 808, §3,
Comp. 561.
1873, ch. 613, §17,
as amended
1874, ch. 329, §17.
Comp. 789.
Proviso as to
new surveys
or maps.

§ 817. The said commissioners shall keep in their office, books to be called "the annual record of the assessed valuation of real and personal estate," in which shall be entered in detail the assessed valuation, of such property within the city and county of New York, and which said books shall be open for examination and correction from the second Monday of January until the first day of May in each and every year, but on said last mentioned day, the same shall be closed to enable the commissioners to prepare assessment rolls of the several wards, for delivery to the aldermen. The said commissioners, previous to and during the time said books are open for inspection, shall advertise the fact in the City Record, and in the several papers, or in such manner as they shall deem most advisable, and as shall be authorized by the concurrent vote of the mayor, corporation counsel, and commissioner of public works.

1870, ch. 302, §§2, 9
Comp. 557.
Annual record
to be kept.

§ 818. The assessed valuation of all personal property shall be entered by said commissioners in books or rolls, in alphabetical order, of the names of persons and corporations subject to taxation. No tax or assessment thereof shall be void in consequence of the name of the rightful owner or owners of any real estate in said city not being inserted in the assessment rolls or lists

Advertising by
commissioners.
1873, ch. 758,
Comp. 154.

1867, ch. 410, §5,
Comp. 560.

But in such case no tax shall be collected except from the real estate so assessed.

1859, ch. 302, §11.
Comp. 557.
Equalization of
taxation.

§ 819. The commissioner may at any time before the second day of April in each year, increase or may diminish at any time before the closing of the books of annual record on the first day of May in each year, the assessed valuation of any real or personal estate in said city, as in their judgment may be necessary for the equalization of taxation; but they shall not increase such valuations after said books are open for correction and review, except upon notice being given to the party affected by such increase, twenty days before the closing of said books.

1859, ch. 302, §10.
Comp. 557.
Books to be
kept open, etc.

§ 820. During the time the books shall be open to public inspection, application may be made by any person considering himself aggrieved by the assessed valuation of his real or personal estate, to have the same corrected. If such application be made in relation to the assessed valuation of real estate, it must be made in writing, stating the ground of objection thereto; and thereupon the commissioners shall examine into the complaint, and if in their judgment the assessment is erroneous, they shall cause the same to be corrected. If such application be made in relation to the assessed valuation of personal estate, the applicant shall be examined under oath by the said commissioners, who shall be authorized to administer such oath, or any of them, and if in his or their judgment the assessment is erroneous, they shall cause the same to be corrected, and fix the amount of such assessment as they may believe to be just, and declare their decision thereon within thirty days after such application shall have been made to them. But said commissioners may during the month of May in any year act upon applications for the reduction of assessments upon real or personal property filed in their office on or before the thirtieth day of April preceding; and cause the corrected amount of any assessment reduced by them to be entered upon the assessment rolls for the year in which such correction may be made.

1859, ch. 302, §20.
Comp. 559.

Certiorari.
1860, ch. 302, §20.

§ 821. A certiorari to review or correct on the merits any decision or action of the commissioners under either of the two preceding sections shall be allowed by the supreme court or any judge thereof directed to the said commissioners on the petition of the party aggrieved.

1870, ch. 382, §8.
Comp. 561.
Power to remit
or reduce taxes.
Remission,
when to be
made.
1873, ch. 388, §87.
Comp. 565.

§ 822. The commissioners of taxes and assessments are hereby invested with power to remit or reduce a tax imposed upon real or personal estates, but such remission or reduction must be made within six months after the delivery of the books to the receiver of taxes for the collection of such tax. It shall require a majority of the commissioners to correct or reduce the assessed valuation of the personal property of any person, and no tax on personal property shall be remitted, canceled or reduced after the expiration of said six months, unless the applicant or party aggrieved shall satisfy the commissioners that he has been prevented by absence from the city or by illness from making his complaint or application to them within said period. The board of aldermen shall have no power to remit or reduce any tax.

§ 823. Whenever any permit shall be granted by the proper officer of the city government, for the erection of any building, pier or bulkhead within said city, a copy of such permit shall be furnished by the said officer to the commissioners of taxes and assessments.

1859, ch. 302, § 14
Comp. 558.
Erection of
buildings, piers,
etc.

§ 824. The following property in said city shall be exempt from all taxation in addition to any which may be exempt by virtue of general laws :

Exemption
from taxation.

1. Any real estate in actual use as a site or sites for Columbia College.

1872, ch. 96, § 1,
Comp. 591.

2. Any real estate now owned or hereafter acquired for the construction and maintenance of an asylum by the trustees of the Masonic Hall and Asylum Fund, but such exemption shall continue only so long as the entire income from the same shall be exclusively used for benevolent and charitable purposes.

1871, ch. 249, § 1,
Comp. 591.

3. The real estate of the National Academy of Design, situate on the corner of Fourth avenue and Twenty-third street, but such exemption shall continue only so long as the same shall be devoted exclusively to the advancement of the fine arts, or be used as a free school of design.

1866, ch. 324, § 1,
Comp. 592.

4. The portion of the property, real and personal, of the Society of the New York Hospital, from which no income is derived, but such exemption shall continue only so long as the same shall be used exclusively for the purposes for which said society was chartered.

1875, ch. 460, § 1,
Comp. 592.

5. The real estate, which was on June thirtieth, eighteen hundred and seventy-four, owned by the House of Rest for Consumptives, but such exemption shall continue only so long as it shall be in actual use for the purposes of such House of Rest, and such exemption shall be of an amount not exceeding one hundred thousand dollars in value.

1874, ch. 650, § 1,
Comp. 592.

6. The real estate owned by the Home for Incurables ; but such exemption shall continue only so long as the said real estate, or the income thereof, shall be used exclusively for the purposes for which the association was incorporated.

1873, ch. 348, § 1,
Comp. 591.

7. The property of the Friendly Society of St. Ambrose Church, both real and personal, to an amount not exceeding fifty thousand dollars in value, but such exemption shall continue only so long as said property is actually used for the charitable purposes of the said corporation.

1868, ch. 258, § 4,
Comp. 590.

8. The property, both real and personal, of St. Luke's Hospital.

1870, ch. 253, § 1,
Comp. 590.

9. The real estate owned by the Young Men's Christian Association, on the southwest corner of Twenty-third street and Fourth avenue, but such exemption shall continue only so long

1866, ch. 350, § 7,
as amended
1870, ch. 248,
Comp. 1801.

as the same, or the income thereof, is used exclusively for the purposes for which the association was incorporated.

1864, ch. 4, §3,
Comp. 1802.
1868, ch. 15, §7,
Comp. 1812.
1880, ch. 53, §5,
as amended
1882, ch. 22, §1,
Comp. 1815.
1859, ch. 279, §11,
Comp. 1824.
1849, ch. 1, §8,
Comp. 1827.
1854, ch. 351, §2,
Comp. 1828.
1859, ch. 235, §7,
Comp. 1830.
1860, ch. 479, §5,
Comp. 1831.

10. The real and personal property of the Roosevelt Hospital; of the Presbyterian Hospital; of the Cooper Institute, so long as the same shall be appropriated to the uses and purposes set out in chapter two hundred and seventy-nine of the laws of eighteen hundred and fifty-nine; of the Clinton Hall Association to the extent of one hundred and fifty thousand dollars; of the Astor Library; the property of the Merchants' and Clerks' Library Association of the city of New York to the extent of one-half in value; the real and personal property of the Woman's Library of the city of New York; and of the New York City Library Association, provided that the amount of such exemption shall not exceed one hundred thousand dollars, and that such exemption shall continue only so long as the property shall be used for the general purposes and objects specified in the charter of said association; the real and personal property of the trustees of the Lenox Library, and of the Mott Memorial Medical and Surgical Library of the city of New York.

1870, ch. 2, §8,
Comp. 1833.
1867, ch. 124, §7,
Comp. 1835.

1866, ch. 647, §3,
Comp. 1761.

1868, ch. 468, §2,
Comp. 1783.

1867, ch. 122, §3,
as amended
1869, ch. 789, §1,
Comp. 1784.

11. The real and personal estate belonging to and used for the charitable purpose of the New York Catholic Protectory.

12. The real and personal property belonging to the Children's Aid Society of the city of New York, and used for the charitable purposes thereof.

13. The real and personal property belonging to the Samaritan Home for the Aged of the city of New York, and that held by it under lease from others when the lessee is required to pay the annual taxes; provided, however, that the value of said property so exempted shall not exceed fifty thousand dollars, and such exemptions shall continue only so long as such property is actually used for the charitable purposes of said corporation.

1861, ch. 225, §3,
as amended
1878, ch. 81, §2,
Comp. 1787.

14. The real estate owned by the Ladies' Union Aid Society of the Methodist Episcopal Church in the city of New York, but such exemption shall continue only so long as the same, or the income thereof, shall be used exclusively for the purpose of said corporation.

1881, ch. 50, §2.

15. The real and personal property of the Nursery for the Children of Poor Women, used exclusively for charitable purposes.

1862, ch. 453, §1,
Comp. 589.

§ 825. The real estate belonging to the corporation of St. John's College, in its actual occupation or use in the Twenty-fourth ward, with the buildings thereon, is exempt from the payment of any tax for the support of schools.

§ 826. The following-described property of the United States, with the buildings thereon, shall be exempt from all taxation.

1. The land, buildings, and machinery owned or used by the United States for the assay office, established by act of congress, passed March third, eighteen hundred and fifty three, or for any mint or branch mint which may be authorized by act of congress, and also metal, bullion, or coin deposited for melting, remelting, assaying, coinage, or recoinage, and coin stamped at such mint or branch, and bars or ingots, after melting, remelting, or assaying, while the same is in the custody, possession, or under the control of the officers of the assay office or mint, or branch mint.

1852, ch. 46, §1,
Comp. 588.
1853, ch. 406, §1,
Comp. 589.

2. The land and buildings, owned and occupied as a general post-office, and appurtenant and adjacent thereto, but such exemption shall continue only so long as the same shall remain the property of the United States and be used for public purposes.

1861, ch. 118, §1,
Comp. 1523.
1860, ch. 506, §1, 4,
Comp. 1522.
1879, ch. 33, §1, 5,
Comp. 1177.

3. The land north of the assay office in Pine street and the land adjoining the same on the east.

1857, ch. 19, §1,
5, Comp. 1520.

4. The entire square formed by Wall, William, and Hanover streets, and Exchange place.

1865, ch. 523,
§1, 5, Comp.
1524.

5. Robin's Reef.

1874, ch. 432,
§1, 3, Comp.
1530.

6. The land at the Battery acquired for the purpose of erecting a barge office and other suitable buildings for the transaction of business connected with the United States revenue service, and for the landing of revenue and other government boats and barges, together with the land adjacent thereto, and the slip or basin connected therewith, but such exemption shall continue only so long as the said land shall remain the property of the United States and be used for the purposes aforesaid.

1868, ch. 362,
§1, 5, Comp.
1528.
1873, ch. 320,
§1, 3, Comp.
1529.

7. All property acquired by the United States, for the improvement of the Hudson river and the Spuyten Duyvil creek, from the North river through the Harlem Kills to the East river, pursuant to chapter one hundred and forty-seven, laws of eighteen hundred and seventy-six, and the amendments thereof heretofore enacted.

1876, ch. 147,
§12, Comp. 1226.

§ 827. The exemption from taxation of every building for public worship, and every school-house or other seminary of learning, under the provisions of subdivision three of section four, title one, chapter thirteen of part first of the Revised Statutes, or amendments thereof, shall not apply to any such building or premises in the city, unless the same shall be exclusively used for such purposes, and exclusively the property of a religious society.

1852, ch. 282, §1,
Comp. 587.
Buildings for
public worship,
school houses,
etc., exempt.
5 N. Y. 376; 3
Sand. 409; 13 N.
Y. 220.

§ 828. On the first day of May in each year, the commissioners shall cause to be prepared from the books of annual record

1859, ch. 302,
§12, 13, Comp.
558.

Assessment
rolls to be
made.

Rolls to be
delivered to the
supervisors.

1862, ch. 163, §2,
Comp. 562.
Duties of the
comptroller.

1873, ch. 388, §2.

1861, ch. 293, §6,
Comp. 564.
Deficiencies to
be provided for.

1871, ch. 573, §3,
Comp. 561.
Assessment
roll, to remain
in custody of
board.

Tax to be ex-
tended therein.

of assessed valuations of real and personal estate in the city, assessment rolls for each of the several wards of said city, and shall annex to each of said rolls their certificate that the same is correct in accordance with the entries in said books of record. The rolls thus certified must, on the first Monday of July in each year, be delivered by the said commissioners to the board of aldermen, who shall meet at noon on that day, at the city hall in said city, for the purpose of receiving the same, and for the purpose of performing such other duties in relation thereto as are prescribed by law.

§ 829. It shall be the duty of the comptroller of said city to prepare and submit to the board of aldermen, at least four weeks before their annual meeting, in each and every year, for the purpose of imposing the annual taxes, a statement setting forth the amounts by law authorized to be raised by tax in that year, on account of the corporation of the city of New York, or for city purposes within said city, and also an estimate of the probable amount of receipts into the city treasury during the then current year from all the sources of revenue of the general fund, including surplus revenues from the sinking fund, other than the surplus revenues of the sinking fund for the payment of interest on the city debt; and the said board of aldermen are hereby authorized and directed to deduct the total amount of such estimated receipts from the aggregate amount of all the various sums which by law they are required to order and cause to be raised by tax in said year for the purposes aforesaid, and to cause to be raised by tax only the balance of said aggregate amount, after making such deduction.

§ 830. It shall be the duty of the said board of aldermen to include in any and every ordinance or resolution passed by them imposing and levying taxes for any purpose or purposes authorized by law, such sum, in addition to the aggregate amount required for such purposes, as they shall deem necessary, not exceeding three per cent. of said aggregate amount, to provide for deficiencies in the actual product of the amount imposed and levied therefor.

§ 831. The tax or assessment rolls, when finally submitted to the board of aldermen on the first Monday of July in each and every year, shall remain in the custody of said board, but the president of said board may, by written permission, permit access to them, and he is hereby, in the name of the board of aldermen and as its act, authorized and directed to cause to be properly estimated and computed the taxes annually imposed, and cause the same to be properly set down or extended in the several assessment rolls or tax books, as required by the next section. It shall also be the duty of said president to cause the

items of said taxes to be carefully added and to set down the amount of the same therein ; and when completed to deliver the tax books relating to real estate to the clerk of arrears, in order that the unpaid water rents of each preceding year may be entered therein. After such completion of the assessment rolls or tax books it shall be the duty of the clerk of the board to procure from the members of the board of aldermen the proper warrants authorizing and requiring the receiver of taxes to collect the several sums therein mentioned, according to law ; and immediately thereafter the president of the board shall deliver the said assessment rolls, with the warrants aforesaid annexed thereto, to the receiver of taxes ; at the same time notifying the comptroller of the amount of taxes in each book, in order that he may cause the proper sum to be charged to the receiver for collection.

Delivery of tax books to clerk of arrears for entry of unpaid water rents.

Amount of taxes to be reported to comptroller.

§ 832. At such annual meeting they must make such alterations in the description of real property belonging to non-residents as may be necessary to render such descriptions conformable to the provisions of law ; and if such alterations cannot be made, they must expunge the descriptions of such real property, and the assessments thereon, from the assessment rolls. They must also estimate and set down in a fifth column, to be prepared for that purpose in the assessment rolls, opposite to the several sums set down as the valuation of real and personal property, the respective sums, in dollars and cents, to be paid as a tax thereon, rejecting the fractions of a cent. They must also add up and set down the aggregate valuations of the real and personal property in the several wards, as corrected by them ; and must transmit to the comptroller of this State, by mail, a certificate of such aggregate valuations, showing separately the aggregate amount of the real and personal property in each ward, as corrected by the board.

1850, ch. 121, §§24, 25, 26, Comp. 563.
Descriptions of real property of non-residents to be examined.

Assessment of tax.
See 1871, ch. 573, §1.

Statement of aggregate valuation to be sent to comptroller.

§ 833. They must also cause the assessment roll of each ward, when corrected according to law, and finally completed, or a fair copy thereof, to be delivered to the receiver of taxes in and for said city, on or before the first day of September thereafter, with the proper warrant or warrants annexed, under the hands and seals of the board of aldermen, or any five or more of them, directing and requiring him to collect from the several persons named in the assessment roll, the several sums mentioned in the last column of such roll, opposite to their respective names, and to pay the same from time to time, when so collected, to the chamberlain of the said city.

Id. §27.
Corrected roll to be delivered to receiver of taxes.

1843, ch. 230, art. 2, §2, Comp. 567.

§ 834. If the aldermen shall willfully refuse or neglect to perform any of the duties required of them by the two preceding sections, each member so refusing or neglecting shall forfeit to

1850 ch. 121, §85, Comp. 564.
Penalty.

the mayor, aldermen, and commonalty of the city of New York the sum of one hundred dollars, to be recovered in a civil action; and shall also be punishable for a misdemeanor.

1843, ch. 230, art. 1, § 4, as amended 1873, ch. 767, § 1, Comp. 565.
Bond of receiver of taxes.

§ 835. The receiver of taxes shall, before entering upon the duties of his office, enter into a bond to the mayor, aldermen, and commonalty of the city of New York, with at least two sureties, to be approved by the chamberlain of the said city, or a justice of the supreme court, in the penal sum of twenty-five thousand dollars, conditioned for the faithful performance of the duties of his office, and every such bond shall be a lien on all the real estate held jointly and severally by the receiver, or his sureties, within the county at the time of the filing thereof, unless there be named and described in or on said bond, real estate equal in value to the amount of said bond, and owned by said sureties or one or other of them, in which case the said bond, shall be a lien on such real estate so described, and upon all the real estate of the said receiver, and no other, and shall continue to be such lien till the condition, together with all costs and charges which may accrue by the prosecution thereof, shall be fully satisfied, not to exceed, however, the period of ten years after the expiration of the term of office of said receiver, unless an action on said bond shall have been commenced and shall then be pending; and the deputy receiver shall also in like manner, before entering upon the performance of the duties of his office, enter into a like bond, with the like sureties, in the penal sum of ten thousand dollars, conditioned for the faithful performance of the duties of his office, which said bonds, when so approved, shall be forthwith filed in the office of the comptroller of the said city.

Of deputy.

Id. § 12, as amended 1844, ch. 238, § 6, Comp. 567.
Additional security may be required.

§ 836. If at any time during the continuance in office of the said receiver of taxes, or of the said deputy receiver, the comptroller shall deem the sureties of them or either of them insufficient, he may require the said receiver of taxes, or the said deputy receiver to enter into a new bond with the like sureties, and to be approved in like manner as hereinbefore prescribed, within such time as he may direct, not being less than ten days after requiring such new bond to be given; and in case of the neglect or refusal of such officer to furnish such bond within the time so directed the comptroller may declare his office vacant.

1873, ch. 767, § 3, Comp. 601.
Duty of comptroller to adjust accounts, etc.

§ 837. Upon the expiration of the term of office of the said receiver or deputy receiver, and within one year thereafter, it shall be the duty of the comptroller to examine and adjust the accounts of such receiver or deputy, and if found correct to cause a certificate to that effect to be filed with the bond of such officer; and such certificate so filed shall be a full discharge and

satisfaction of the conditions of such bond, and the lien or liens thereby created.

§ 838. The office of said receiver of taxes shall be kept at such place in the said city as shall be, from time to time, by ordinance of the common council, assigned for that purpose, but subject to the other provisions of this act; and shall be kept open on each day in the year (Sundays and public holidays excepted) from the hour of eight in the forenoon till two in the afternoon.

1843, ch. 230, art. 1, §6, Comp. 563.
Office where to be kept.

§ 839. Subject to the direction of the comptroller, it shall be the duty of the receiver of taxes personally to receive all taxes which may be paid at the said office; and of the deputy receiver to retain the possession in the said office, and not elsewhere, of the warrants and assessment rolls which shall, from time to time, be delivered to the said receiver by the aldermen or comptroller.

Id. §7.
as amended
1844, ch. 238, §3.
See 1873, ch. 335,
§38, Comp. 70.

§ 840. The receiver of taxes, upon receiving the assessment rolls and warrants, shall proceed to collect and receive the said taxes from the several persons assessed in the said assessment rolls in the manner hereafter mentioned.

Taxes paid at the office, how received.
1843, ch. 230, art. 1, §3, Comp. 563.

§ 841. The said receiver shall, immediately after he shall have received the said assessment rolls, give public notice in the City Record, and when authorized as provided in section sixty-six of this act, in six or more of the public newspapers printed in said city, that said assessment rolls have been delivered to him, and that all taxes are then due and payable; and that in case of payment on or before the first day of November thereafter, the person so paying shall be entitled to the benefits mentioned in the next section.

Duty of receiver.
1850, ch. 121, §27, Comp. 563.
Receiver to give notice.

§ 842. If any person who shall be assessed in any of the said assessment rolls, shall pay the amount of his taxes on or before the first day of November, succeeding the delivery of the said assessment rolls and warrants to the said receiver, it shall be the duty of the said receiver to receive the same and to deduct therefrom interest, at the rate of six per cent. per annum, between the day of such payment and the first day of December then next succeeding.

1843, ch. 230, art. 2, §4, as amended 1850, ch. 121, §30, Comp. 563.

1881, ch. 33.

§ 843. If any such tax shall remain unpaid on the said first day of December, it shall be the duty of the said receiver of taxes, in said city, to charge, receive and collect upon such tax so remaining unpaid on that day, in addition to the amount of such tax, one per centum on the amount thereof, and to charge, receive, and collect upon such tax so remaining unpaid on the first day of January thereafter, interest upon the amount thereof at the rate of seven per centum per annum, to be calculated from the day on which said assessment rolls and warrants

Per centum and interest to be charged on unpaid taxes.
1881, ch. 33, §2.
1843, ch. 230, art. 2, §6.
1850, ch. 121, §31, Comp. 563.

shall have been delivered to said receiver of taxes to the date of payment; and such increase or percentage shall be paid over and accounted for by such receiver from time to time as thereinbefore described, as a part of the tax collected by him. The same rate of interest shall be charged upon any tax levied in the year eighteen hundred and eighty, or since said year, and remaining unpaid.

1871, ch. 381, 2.
Comp. 573.
1881, ch. 33, §3.

§ 844. It shall be the duty of the said receiver to charge, collect, and receive upon all taxes remaining unpaid on and after the said first day of January an interest at a rate of seven per cent. per annum, to be calculated from the day on which the said assessment rolls and warrants shall have been delivered to the said receiver.

1881, ch. 33, §1.
Receiver of
taxes to pub-
lish notice.

§ 845. If any taxes of any year shall remain unpaid on the first day of November, after the assessment-rolls and the warrants to collect such taxes have been delivered to the receiver of taxes in the city of New York, it shall be the duty of said receiver to give public notice by advertisement for at least ten days in two of the daily newspapers and in the City Record, printed and published in said city, respectively, that unless the same shall be paid to him at his office, on or before the first day of September in any such year, he will immediately thereafter proceed to collect such unpaid taxes, as provided in section eight hundred and forty-three.

1871, ch. 381, §2.
Comp. 573.
Tax receiver to
give notice re-
quiring pay-
ment of unpaid
taxes.

§ 846. The receiver of taxes shall, immediately after the first day in December in each year, give public notice in the City Record, and when authorized as provided in section sixty-six of this act, at least six of the daily newspapers printed and published in said city respectively, at least ten days, notifying all persons who have omitted to pay their taxes to pay the same to him at his office on or before the first day of January.

1871, ch. 381, §19.
Comp. 579.
Payment of un-
divided parts of
taxes, etc.
Part unpaid to
be a lien upon
residue of lands.
2 Bosw. 516.

§ 847. If a sum of money in gross has been or shall be taxed upon any lands or premises, any person or persons claiming any divided or undivided part thereof may pay such part of the sum of money so taxed, also of the interest and charges due or charged thereon, as the said comptroller may deem to be just and equitable; and the remainder of the sum of money so taxed, together with the interest and charges, shall be a lien upon the residue of the land and premises only, which residue may be sold to satisfy the residue of such tax, interest, or charges, in the same manner as though the residue of said tax had been imposed upon the residue of said lands or premises.

1843, ch. 230, art.
2, §§15, 16.
Comp. 569, 570.
Taxes on corpo-
rations, of
whom to be
demanded.

§ 848. The said receiver shall demand payment of all taxes assessed on incorporated companies in the said city, from the president or proper officer of such companies, and if not paid, shall proceed in the collection and payment thereof, in the same

manner as in other cases, and his receipt shall be evidence of the payment of such tax. Such taxes shall be paid out of the funds of the company, and shall be ratably deducted from the dividends of those stockholders whose stock was taxed, or shall be charged upon such stock, if no dividends be afterwards declared.

To be paid out of company's funds.

§ 849. The receiver of taxes shall enter into suitable books, to be kept by him for that purpose, the sums received by him for taxes, and at the expiration of the office hours for each day, and before three o'clock thereof, shall render a statement of the same to the chamberlain, and at the same time on each day pay over to said chamberlain the amount received on such day; he shall also thereupon receive from the said chamberlain a voucher for the payment of such sums, which he shall forthwith, on the same day, exhibit to the comptroller of the said city.

Id. art. 1, §8, as amended 1844, ch. 238, §4. Comp. 566. Suitable books to be procured.

§ 850. It shall be the duty of the deputy receiver, from time to time, to enter in a column to be made for that purpose upon the assessment rolls in his possession, opposite to the names of the persons mentioned therein, and who shall pay their tax as aforesaid to the said receiver of taxes, the fact of such payment, the amount thereof, and the day when paid, and to enter into suitable books, to be kept by him for that purpose, on each day such payments, with a statement of the ward for which the same were received, and the names of the parties respectively on whose account the same were paid; and at the expiration of the office hours, and on the same day, he shall furnish to the comptroller of the said city a detailed statement of such sums, and of the ward for which received, and of the names of the parties respectively on whose account the same have been paid, which shall be filed by the said comptroller in his office. The comptroller shall, on each day, immediately after receiving from said deputy receiver the said statement, compare the same with a voucher furnished to him by the receiver of taxes and the chamberlain for the payment thereof to the chamberlain, and if the aggregate amounts thereof shall correspond, shall credit the said receiver of taxes in his books with such amount.

Id. §§9, 10, as amended 1844, ch. 238, §5. Duty of deputy receiver.

Credit to be given for payments.

§ 851. If the receiver of taxes, or the deputy receiver, shall on any day omit or neglect to furnish to the chamberlain, or to the comptroller, respectively, the statements and vouchers required by law, or to make the daily payments hereinbefore prescribed, it shall be the duty of the comptroller forthwith to suspend from office the party delinquent. In case of such suspension, the comptroller shall appoint a suitable person to perform the duties of the officer so suspended, who shall continue to act as such officer, with all the powers conferred upon him by this title, until the party suspended shall be

1843, ch. 230, art. 1, §51, Comp. 566. Receiver and deputy to be suspended in case of omission or neglect.

restored, or another person shall have been appointed. On making such temporary appointment, the comptroller shall be required to take from the party so appointed a bond, with two sufficient sureties, to be approved by the chamberlain and filed with the said comptroller, in such penal sum as the said chamberlain may deem just, conditioned for the faithful performance of the duties of the office during the continuance of the person so appointed therein; and all the provisions of this title prescribing the duties of the said receiver of taxes, and the said deputy receiver, shall apply to the person or persons so appointed in their stead by the comptroller.

Id. §12,
Comp. 567.
Provision in
case of their
sickness or
absence.

§ 852. In case of the inability of the receiver or of the deputy receiver to perform the duties of his office by reason of sickness or absence from the city, the comptroller shall designate some suitable person to perform the duties of his office during such inability, and shall, in his discretion, take from such person a bond, with sufficient sureties, in the manner prescribed in the preceding section.

1871, ch. 381, §2,
Comp. 573.
Collection of
unpaid personal
tax by distress
and sale.

§ 853. It shall be lawful for the said receiver, if any tax for personal property and the interest thereon, as hereinbefore provided, shall remain unpaid on the fifteenth day of the month of January, succeeding the receipt by him of the rolls, to issue his warrant, under his hand and seal, directed to the sheriff, or any marshal of the city and county of New York, commanding him to levy the said tax, with interest thereon at the rate of seven per cent. per annum from the day of the delivering of the assessment rolls and warrants to the said receiver to the time when the same shall be paid by distress and sale of the goods and chattels of the persons against whom the said warrants shall be issued, or of any goods and chattels in his or her possession wheresoever the same shall be found within the said city and county, and to pay the same to the said receiver, and return such warrants within thirty days after the date thereof.

1881, ch. 33.

1845, ch. 308, §2,
Comp. 580.
Costs to be col-
lected in addi-
tion to tax.

§ 854. In all cases where the said receiver shall proceed by distress and sale of the goods and chattels of any person for the payment of any tax due and payable, it shall be lawful for him to authorize and empower the officer making such distress and sale to collect, in addition to the tax and the interest thereon, the costs of such distress and sale.

1843, ch. 230, art.
2, §10, Comp.
568.
Duty of sheriff
or marshal

§ 855. The sheriff or marshal to whom a warrant for the collection of any tax is issued shall give public notice of the time and place of sale of any property distrained by virtue thereof, and of the property to be sold, at least six days previous to the sale; by advertisements to be posted up in at least three public places in the ward where such sale shall be made. The sale shall be by public auction.

§ 856. If the property distrained shall be sold for more than the amount of the tax, the surplus shall be returned to the person in whose possession such property was when the distress was made, if no claim be made to such surplus by any other person. If any other person shall claim such surplus, on the ground that the property sold belonged to him, and such claim be admitted by the person for whose tax the same was distrained, the surplus shall be paid to such owner; but if such claim be contested by the person for whose tax the property was distrained, the surplus moneys shall be retained by the said sheriff or marshal until the rights of the parties shall be determined by due course of law.

Id. §11.
Property dis-
trained to be
sold.

§ 857. In case of the refusal or neglect of any person to pay any tax imposed on him for personal property, if there be no goods or chattels in his possession upon which the same may be levied by distress and sale according to law, and if the property assessed shall exceed the sum of one thousand dollars, the said receiver, if he has reason to believe that the person taxed has debts, credits, choses in action, or other personal property, not taxed elsewhere in this State, and upon which levy cannot be made according to law, may thereupon in his discretion make application, within one year, to the court of common pleas of the county, or the supreme court, to enforce the payment of such tax. The court may impose a fine for the misconduct mentioned in this section, sufficient in amount for the payment of the tax assessed, and of the costs and expenses of the proceedings authorized by this title to enforce such payment, or to punish such misconduct; and the amount of such tax shall be paid out of such fine to the said receiver, who shall pay the same in like manner as the tax was required to be paid; and costs and expenses of such proceedings shall be paid out of such fine to the said receiver who made the application to enforce the payment of the tax.

Id. §§12, 13,
Comp. 569.
Provision in
case of non-pay-
ment of tax for
personal
property.
5 Hun, 237.

Fine may be
imposed equal
to the tax and
costs.

§ 858. Whenever any bond taken under the proceedings referred to in the last preceding section shall be ordered to be prosecuted, such order shall operate as an assignment of the bond to the said receiver, who shall be authorized to prosecute the same in any court of record, in his name as such receiver, as the assignee of the officer to whom the bond was given, in the same manner as in other actions on bonds with conditions to perform covenants other than for the payment of money; and the measure of damages in such action shall be the extent of such tax, and the costs and expenses of the proceedings to enforce the payment thereof, and shall be applied and paid in like manner as the fine mentioned in the next preceding section is therein directed to be applied and paid; and in all such

Id. §14.
Order to prose-
cute to operate
as an assign-
ment of bond to
receiver.

actions, if the plaintiff recovers, he shall recover all costs against the defendant.

1867, ch. 334, §3.
Comp. 586.
Receiver of
taxes, duty of,
under act.

§ 859. It shall be the duty of the receiver of taxes to send or cause to be sent to the "attorney for the collection of arrears of personal taxes," monthly, all cases of personal taxes embraced in the assessment rolls, when the assessment is one thousand dollars or more, and upon which a warrant to any of the marshals of said city and county has been issued and unsatisfied for a period of sixty days, or returned unsatisfied in whole or part, and of all other cases of personal taxes, except in those cases where the comptroller may extend the warrant, when application to any court may be made for the collection of the tax, and the said attorney is authorized to make requisitions upon the said receiver for all such cases.

1867, ch. 324, §4.
Comp. 583.
Duty of attorney,
etc.

§ 860. The attorney for the collection of arrears of personal taxes shall, subject to the control of the counsel to the corporation, be charged with the prosecution of all suits or proceedings, in any court having jurisdiction, for the collection of all cases of personal taxes, sent to him by the receiver of taxes, or where, by any law of this State, any suit or proceeding may be instituted by such receiver or any marshal acting under a tax warrant, in any court for the collection of any tax for personal property, and shall, subject to such control, act as attorney and counsel to the receiver of taxes, and to any marshal acting under the warrant of said receiver in the collection of any tax for personal property.

Id. §5.
Proceedings
where court is
convinced that
tax cannot be
paid.

§ 861. The court in which any proceeding may be commenced to enforce the payment of any tax for personal property, may in any case where it shall be satisfied that the person or persons taxed are unable for the want of property to pay any tax, dismiss the proceedings absolutely without costs, or conditionally upon the payment of costs, or may dismiss such proceedings on the payment of such part of the tax and costs as shall be just. In cases where any proceeding shall be dismissed under this section, on payment of a portion of the tax, a copy of the order of the court shall be filed with the receiver of taxes, and a note of the contents of such order entered upon the assessment roll, and it shall be the duty of said attorney to report all cases dismissed on account of the inability of the person to pay the tax to the commissioners of taxes and assessments, annually, on the thirty-first day of December in each year; and said commissioners are hereby authorized to strike the names of all such persons from the assessment rolls for the succeeding year.

Id. §§6, 10.
Comp. 585.
Books to be
kept by attorney,
etc.

§ 862. The said attorney shall keep, in proper books to be provided by the corporation of said city for that purpose, a register of all actions or proceedings prosecuted, and upon the ex-

piration of his term of office, or his resignation thereof or removal therefrom, said attorney shall deliver to his successor in office all books and papers in his hands belonging to his office, or delivered to him by the receiver of taxes, or any marshal of said city, and in anyway connected with his office, or any business pertaining thereto. The said attorney shall pay over, under oath, to the receiver of taxes of said city, monthly, or oftener if required, all taxes collected by him.

To whom attorney to pay over taxes received by him.

§ 863. Any tax duly imposed for personal property upon any person or corporation in the city and county of New York, and which shall remain unpaid and in arrear on the fifteenth day of January succeeding the year in which it shall have been imposed, may be recovered, with interest and costs, by the receiver of taxes of said city, in an action in any court of record in this State.

1867, ch. 334, § 11, Comp. 535.
When "receiver" may prosecute for taxes on personal property.

§ 864. The counsel of the corporation, whenever he may deem it essential to the public interests, shall assume, conduct, and control any suit or proceeding contemplated under the provisions of the five preceding sections, and employ counsel in cases connected with the assessment and collection of taxes.

Id. § 12.
When corporation counsel may control suits under this act.

Title 2.—Assessments for Improvements other than Opening and Closing Streets, etc.—For what purposes Assessments may be Imposed and How.

§ 865. The commissioners of taxes and assessments shall from time to time appoint four skillful and competent disinterested persons, citizens of the United States and residents of the city of New York, who shall constitute a board to be known as the board of assessors, and who shall be charged with the duty of making the estimates and assessments required by law for building wells, erecting pumps, pitching, paving, regulating and repairing streets, relaying pavements, constructing sewers, fencing vacant lots and public slips, and all other improvements directed by corporation ordinance for which an assessment may be made.

1839, ch. 302, § 15, as amended 1869, ch. 898, § 2, Comp. 538.
Assessors.
49 How. 405; 6 Daly, 18; 62 N. Y. 322; 70 N. Y. 157; 17 Hun, 539; 44 Barb. 46; 1871, ch. 218, § 2.

§ 866. The said board of assessors, or a majority thereof, shall make all estimates and assessments, give all notices, receive and pass upon all objections, and certify in accordance with the existing laws relative to all such matters. The common council shall, subject to the other provisions of this act, provide for and assign to said assessors a suitable and convenient room or rooms for the transaction of their business, and shall provide the said assessors with the requisite and necessary lights and fuel out of the city treasury.

1839, ch. 302, § 16, Comp. 538.
Board of assessors.

1861, ch. 306, §1,
Comp. 645.
52 N. Y. 650; 17
Hun. 559; 70 N.
157; 38 How.
390; 49 How. 405.
81 N. Y. 62.
1872, ch. 580, §6,
Comp. 645.
Powers of
board.
21 Hun. 130.

§ 867. The comptroller, counsel to the corporation, and recorder shall continue to constitute a board of revision and correction of all assessment lists. The said board, or a majority thereof, shall have and perform all the powers and duties relative to the revision, correction and confirmation of assessment lists specified in the various laws relating to assessments in the said city, other than assessments made by commissioners appointed by a court or justice. Said board shall have power to consider on the merits all objections made to any assessment, and to subpoena and examine witnesses in relation thereto, and to confirm said assessments, or to refer the same back to the board of assessors for revisal and correction in such respects as they may determine. The revision of such assessment lists shall be made without delay, so that, unless the same are referred back for revisal and correction, they shall be confirmed within thirty days from the time they shall respectively be presented for confirmation, and if not so confirmed or referred back, they shall be deemed to be confirmed at the expiration of thirty days from the time they shall be respectively so presented for confirmation.

1861, ch. 306, §1,
Comp. 645.
6 Daly, 343; 62
N. Y. 623; 70
N. Y. 157.

1880, ch. 556, §5.
Assessments
for local im-
provements.

What certi-
ficates to con-
tain.

§ 868. All assessments hereafter imposed for local improvements in said city shall be made by the board of assessors on the following certificates, to wit :

1. The head of the department charged with the execution of the work in question shall certify to the said board of assessors the total amount of all the expenses which shall have been actually incurred by the mayor, aldermen and commonalty on account thereof.

2. The comptroller shall certify to the said board of assessors the amount of the interest, at the legal rate, upon the several installments advanced or payments made on account of such work, from the time of such payment or advance by the city to a day sixty days after the date of such certificate. Thereafter the said board of assessors shall assess upon the property benefited, in the manner authorized by law, the aggregate amount of such certificates, or such proportion thereof as is authorized by law, and the said board shall not in any way be enjoined, restrained, hindered, or delayed in the performance of this duty; provided that nothing contained in this section shall be construed to affect the powers of the board for the revision and correction of assessments.

1840, ch. 326, §1,
Comp. 643.
Duty of assess-
ors.
1853, ch. 579, §1,
Comp. 590.
Ward or block
numbers.

§ 869. In all cases where the assessors shall describe the houses and lots assessed for any improvement, the assessment shall describe and particularize all such houses and lots by the known street number as well as the ward number. The same ward or block numbers shall be used to designate the lots as are

or may be used to designate them in assessments for taxes, and no other numbers, except where no ward or block numbers exist. The assessors shall also state the names of the owner or owners and occupant or occupants; and it shall be their duty to ascertain by inquiry to be made of the deputy commissioners of taxes of the ward in which the property assessed is situate, and by inquiry of the receiver of taxes as to such ownership, and such persons shall afford the requisite information.

1840, ch. 328, §1.
Comp. 644.
4 Sand. 50.

§ 870. The assessors shall in no case assess any house, lot, improved or unimproved lands more than one-half the value of such house, lot, improved or unimproved land as valued by the assessors of the ward in which the same shall be situate.

1840, ch. 326, §7.
Comp. 644.
Amount at which property is to be assessed.
66 N. Y. 395; 69
N. Y. 358, 452;
70 N. Y. 476; 5
Hun, 287, 442;
14 Hun, 14; 11
Hun, 381; 74
N. Y. 610; 76
N. Y. 432; 55
How. 57; 73
N. Y. 854.
1841, ch. 171, §1.
Comp. 643.
Notice to be given of completion of estimate and assessment.

§ 871. It shall be the duty of the board of assessors when they have completed any assessment to give notice to the owner or owners, and to the occupant or occupants of all houses and lots and improved or unimproved lands affected thereby, that they have completed the estimate and assessment; such notice shall be published daily in the City Record, and when authorized pursuant to the provisions of section sixty-six of this act, in at least two of the daily newspapers, for ten days successively. The notice shall describe the limits embraced by such assessment, and shall contain a request for all persons whose interests may be affected thereby, and who may be opposed to the same, to present their objections in writing to the chairman of the assessors within thirty days from the date of such notice, and if after examining such objections, the assessors shall not deem it proper to alter their assessment, or having altered it, there shall still be objections to the same, it shall be their duty to present such objections, with the assessment, to the board of revision and correction.

§ 872. The board of assessors are hereby empowered and directed to assess upon the property intended to be benefited, in the manner provided by law for making assessments for local improvements, the expense now incurred, or which shall hereafter be incurred by the mayor, aldermen, and commonalty, for the construction of sewers in portions of the city not embraced within the limits of any sewerage district, and said assessments shall be confirmed and collected in the manner provided by law for the confirmation and collection of assessments for local improvements in the city; provided that no premises on which an assessment for a sewer was, before April twenty-sixth, eighteen hundred and seventy, paid or vacated by an order of the supreme court, shall, by reason of anything contained in this section, become liable to be again assessed for the same improvement; and further provided that the expense of making any new

1870, ch. 383,
§29, Comp. 663.

assessment, pursuant to this section, shall be borne by the mayor, aldermen, and commonalty.

1852, ch. 52, §3,
Comp. 638.

Assessors to
estimate loss
and damage to
owners of land,
and make
award of
amount.

53 How, 280;
49 How, 405;
6 Daly, 18; 62
N. Y. 623; 7
Hun, 231; 64 N.
Y. 606; 3 Hun,
755; 62 N. Y.
624; R. L. 1813,
ch. 86.

§ 873. In all cases where the grade of any street or avenue which was established south of Sixty-third street on or before March fourth, eighteen hundred and fifty-two, or which has been since, or shall hereafter be established north of said Sixty-second street, shall be changed or altered in whole or in part, it shall be the duty of the board of assessors to estimate the loss and damage which each owner of land fronting on such street or avenue will sustain by reason of such change to such lands, or to any improvements thereon; and make a just and equitable award of the amount of such loss or damage to the owner or owners of such lands or tenements fronting on such street or avenue and opposite thereto, and affected by such change of grade, and the amount of such award shall be included in the expense of such proceeding, and with such expense shall be assessed as provided in and by section eight hundred and seventy-seven.

1877, ch. 454,
Comp. 679.
Owners, etc., of
lands entitled
to damages
caused by
change of
grade.

Owners, etc., of
lands entitled
to damages
caused by
change of
grade.

Id.

Ascertaining
and assessing
of damage.

Proviso.

§ 874. All persons owning lands and premises in the Twenty-third and Twenty-fourth wards shall be entitled to compensation for all damages to their buildings and improvements resulting from the change of the grade of the street or avenue running in front of the lands or premises owned by them, where such grade has been or shall be changed by the department of public parks, or other department or competent authority of said city, in the following cases: 1. Where the original grade has been established by the board of trustees of the town of Morrisania, or by the commissioners appointed by chapter eight hundred and forty-one of the laws of eighteen hundred and sixty-eight, or by any commissioners appointed by any act of the legislature of this State, where, in either case the street or avenue has been graded in accordance with such grade, or where, in either case, the buildings and improvements have been erected or made since the establishment of such grade. 2. Where the original grade has been heretofore established by said department of public parks, or shall hereafter be established by said department, or by any department or competent authority in said city where the street or avenue has been or shall be graded in conformity to such grade, or where the buildings and improvements have been or shall be erected or made subsequent to the establishment of such grade. Such damages shall be ascertained and assessed in connection with, and as a part of the expenses of, the grading of the street or avenue in conformity with the grade as changed; provided, however, that in cases where the street or avenue was graded prior to June 16, 1877, in conformity with the grade as changed, and an assessment of the expense thereof

had been then levied and made final, no damages shall be allowed or recoverable under this section, but where no assessment had been then levied and made final, damages shall be allowed and be recoverable as hereinbefore provided.

§ 875. Unless it shall be petitioned for by a majority of the owners of the property (who shall also be the owners of a majority of the front feet) on the line of the proposed improvement, no assessment shall be imposed for the paving of any street, avenue, or public place or any portion thereof, which street, avenue, public place or portion has been once paved and the expense thereof paid by the owners of the adjoining property.

1873, ch. 335,
§115.

§ 876. The mayor, aldermen, and commonalty shall, within four months after the confirmation of the assessment of the assessors, made in pursuance of the last section but one, pay to the respective parties entitled thereunto, the amount of such awards in their favor respectively; and in case of their neglect or default to pay the same after demand made therefor, it shall be lawful for the person or persons entitled to the same to sue for and recover the amount of said awards, and in case any such award or compensation shall be paid to any person or persons not entitled thereto, when the same ought to have been paid to some other person or persons, it shall be lawful for the person or persons to whom the same ought to have been paid to sue for and recover the same with lawful interest and costs of suit, as so much money had and received to his, her, or their use, by the person or persons, respectively to whom the same shall have been so paid; provided that when the name or names of the owner or owners, party or parties are not set forth in the report of the assessors, or where the said owners, parties, or persons respectively, being named therein shall be insane, a married woman under the age of twenty-one years, or absent from the city, or after diligent search, cannot be found, or their title to receive such awards disputed, it shall be lawful for the said mayor, aldermen, and commonalty to pay the sum or sums mentioned in said report, or that would be coming to such owners, parties, and persons respectively, to the chamberlain, to be secured, disposed of, and improved as the superior court shall direct, and such payment shall be as valid and effectual in all respects as if made to the said owners, parties, and persons respectively themselves, according to their just rights, if they had been known and had been present, of full age, single women, and of sound mind. Upon payment of any such sum or sums to the said chamberlain, the said commissioner of public works or other officer of the corporation by whom such payment shall

1852, ch. 52, §4,
Comp. 638.
Amount of
award to be
paid by mayor,
etc.
49 How., 405; 6
Daly, 18; 62 N.
Y. 623; 3 Hun,
755; 62 N.Y. 624.

When not paid
to the right per-
son may sue
and recover.

be made, shall forthwith give notice thereof to the said superior court.

1871, ch. 218, §2.
Comp. 194.
Expenses
incurred, how
assessed upon
property
benefited.

§ 877. The expenses incurred by the mayor, aldermen, and commonalty under section three hundred and twenty-three, shall be assessed by the board of assessors upon the property benefited, and all provisions of law relative to the collection of assessments for local improvements shall apply to such assessments.

1813, ch. 86, §173.
Comp. 687.
Sewers to be
made, streets
paved, etc.
Sec 1824, ch. 49.

§ 878. It shall be lawful for the mayor, aldermen, and commonalty to cause common sewers, drains, and vaults to be made in any part of the city, and to order and direct the pitching and paving the streets thereof, and the cutting into any drain or sewer, and the altering and amending of any street, vault, sink, or common sewer within the said city; and the raising, reducing, leveling, or fencing in any vacant or adjoining lots in the said city; and to cause estimates of the expense of conforming to such regulations to be made, and a just and equitable assessment thereof among the owners or occupants of all the houses and lots intended to be benefited thereby, in proportion, as nearly as may be, to the advantage which each shall be deemed to acquire; and the assessors, after having made such estimate and assessment, shall certify the same in writing, and being confirmed, it shall be binding and conclusive upon the owners and occupants of such lots so to be assessed respectively, and shall be a lien or charge on such lots as aforesaid, and such owners or occupants shall also respectively be liable, upon demand, to pay the sum at which such houses or lots respectively shall be so assessed, to such person as shall be appointed to receive the same; and the money when paid shall be applied towards making, altering, amending, pitching, and paving such streets, and making and repairing such vaults, drains, and sewers as aforesaid, and raising, reducing, leveling, or fencing in such lots as aforesaid; provided, however, that nothing herein contained shall affect any agreement between any landlord and tenant respecting the payment of any such charges, but they shall be answerable to each other in the same manner as if this title had never been made; and if any money so to be assessed be paid by any person, when by agreement or by law the same ought to have been borne and paid by some other person, it shall then be lawful for the person paying, to sue for and recover the money so paid, with interest and costs, as so much money paid for the use of the person who ought to have the same; and the assessment aforesaid, with proof of payment, shall be conclusive evidence in such suit.

Expenses, how
estimated and
assessed.
49 How. 405; 39
N. Y. Supr. 255;
66 N. Y. 622; 3
Hun. 755; 62 id.
624; 50 N. Y.
513; 44 Barb. 46.

To be ratified
by common
council.

Agreement
between land-
lord and
tenant, not
affected.

Persons paying
for others to
recover back.

1813, ch. 86, §270.
Comp. 688.

§ 879. It shall and may be lawful for the mayor, aldermen, and commonalty, in all cases where they may deem it necessary

for the more speedy execution of any laws, by-laws, and ordinances, orders or directions, or any of them, which the said corporation are authorized to make, to cause all such works as may be necessary for any of the purposes specified in the two preceding sections or in section five hundred and sixty-one, or any part thereof, to be executed and done at their own expense, on account of the persons respectively upon whom the same may be assessed, and they shall have full power, and are hereby authorized to recover the amount of every such expense, by action in any court of record, from the persons respectively on whose account the same shall have been incurred, their respective heirs, executors, or administrators, in all which actions they shall also recover lawful interest upon the said amount, with full costs of suit. The amount of every such expense which the mayor, aldermen, and commonalty shall pay as aforesaid, on account of others, shall be a real incumbrance upon the houses and lots in respect to which such assessments as aforesaid shall have been made, and shall bear lawful interest until paid, and the same may be recovered, or the payment thereof, with costs, enforced in like manner as if the said houses and lots were mortgaged to the said mayor, aldermen, and commonalty for the payment thereof, and shall be a real incumbrance upon the said houses and lots, lands and tenements, which may be sold for any such assessment thereon.

§ 880. It shall and may be lawful for the mayor, aldermen, and commonalty, in all cases where they may deem it necessary for the more speedy execution of any by-law or ordinance requiring the owner or joint owners, agent or joint agent, lessee or joint lessees, and occupant or joint occupants of any lot or lots, to fill up or raise such lot or lots forthwith upon the passage of such by-law or ordinance, or at any time thereafter, when they may deem it expedient to cause such lot or lots to be filled up or raised, at their own expense, on account of such owner or owners, agent or agents, lessee or lessees, and occupant or occupants respectively; and the said mayor, aldermen, and commonalty shall have full power, and are hereby authorized to recover the amount of every such expense, by action in any court of record, from the persons respectively on whose account the same shall have been incurred, their respective heirs, executors, or administrators; in all which actions they shall also recover lawful interest upon the said amount, with full costs of suit. And further, the amount of the moneys which the mayor, aldermen, and commonalty shall have advanced for the above purposes, with lawful interest for the same, shall be deemed a lien on such lot or lots, and such lot or lots may be sold therefor, in the same manner as if the said amount and interest had been charged on the said lot or lots by virtue of an assessment.

Work to be done at expense of mayor, etc. See 1824, ch. 49, Comp. 638. 36 How. 390; 54 Barb. 225; 79 N. Y. 384.

1813, ch. 86, §271, Comp. 600. Expenses a lien on property assessed.

1824, ch. 49, §1 Comp. 638.

Id. §2. Regulations as to raising or filling up lots, etc. 36 How. 390; 54 Barb. 225.

Amount declared a lien, etc.

1880, ch. 367, §1.

§ 881. The expense which the commissioner of public works is authorized to incur by section three hundred and thirty-nine of this act shall be assessed and collected in the manner provided in this title and in title four of this chapter, for levying and collecting assessments for local improvements.

1835, ch. 122, §§1, 2, 3, Comp. 1584.
Expense.

§ 882. The expense of conforming to any order or direction made in accordance with section seven hundred and twenty-one, or of carrying the same into effect, shall be estimated and assessed by the board of assessors upon or among the owner or owners of any or every wharf, pier, dock, bulkhead, piece of land, water right or privilege, near or adjacent to which any such water may be deepened, and which may in any manner be benefited thereby, in proportion, as nearly as may be, to the advantage which each shall be deemed to acquire. Every such estimate and assessment, after confirmation, shall be binding and conclusive upon the owners thereby assessed respectively, and shall be a lien or charge upon the property or premises in respect to which the same may have been made.

Id. §5.

§ 883. If any money to be collected under and by virtue of the preceding section, shall be paid by any person, when by agreement or by law the same ought to have been borne and paid by some other person or persons, it shall be lawful for the person so paying to sue for and recover the money so paid with interest and costs, as so much money paid for the use of the person or persons who ought to have paid the same, and the assessment aforesaid, with proof of payment, shall be sufficient evidence in such suit.

1817, ch. 25, §1,
Comp. 693.
1813, ch. 96, §200,
Comp. 690.
Cisterns in
public streets.

§ 884. Whenever, in the opinion of the mayor, aldermen, and commonalty, in common council convened, it shall be expedient to make a public cistern, or a public well and pump in any of the public streets, roads, or places in the said city, it shall be lawful for the said common council to order the same to be done accordingly, in such manner and at such places as they shall think most advisable, and the expense thereof shall be estimated and assessed among all the owners or occupants of the houses and lots of ground intended to be benefited thereby, in the manner directed in and by section eight hundred and seventy-seven, and shall be binding and conclusive, in the manner therein prescribed.

Record of
assessments
confirmed, to
be open to
inspection.
1871, ch. 381, §20,
Comp. 579.

§ 885. There shall be kept in the office of the comptroller a full and complete record in detail of all lists of assessments confirmed by the supreme court or by the board of revision and correction of assessments, with the date and order of confirmation, which record shall be open to inspection during office hours, and the same shall be received as presumptive evidence of the facts therein contained.

§ 886. The commissioners of estimate and assessment appointed pursuant to the provisions of chapter one hundred and forty-seven of the laws of eighteen hundred and seventy-six, and chapter three hundred and forty-five of the laws of eighteen hundred and seventy-nine, as amended by chapter sixty-five of the laws of eighteen hundred and eighty, by the several orders of the supreme court made and entered upon the petition of John Newton, the engineer in charge of said improvement, in the name of the United States, at a special term of the first judicial district, held in the city of New York, on the twenty-fourth, twenty-seventh and thirty-first days of October, eighteen hundred and seventy-nine, or in the event of the death, resignation or removal of such commissioners, or either of them, such other commissioners as may be appointed by the supreme court in the place and stead of such commissioner or commissioners so dying, resigning or removed, are hereby authorized and directed to lay out and determine upon an area of assessment embracing such lands and premises on each side of the exterior lines of said improvement, or as nearly adjacent thereto as said commissioners shall deem to be benefited thereby, and to assess upon such lands and premises, and the persons and parties in interest owning the same, within such area of assessment for the value of such benefit, the sum required to pay the compensation awarded to, or to be awarded by them under the said acts and under the nine following sections of this act, and the order or orders of the supreme court heretofore made or hereafter to be made upon such petition, and the cost and expenses of estimate, assessment, and other proceedings necessarily taken or to be taken under and authorized by said acts and sections. Said commissioners, before they enter upon the performance of the duties hereinafter prescribed, shall severally take and subscribe the oath prescribed by the twelfth section of the constitution of this state, which oath shall be filed in the clerk's office of the city of New York.

1881, ch. 61, §1,
Commissioners
to lay out area
of assessment.
Spuyten
Duyvill im-
provement.

Assessmen

§ 887. It shall be the duty of said commissioners, after having viewed the premises, to lay out and determine, so far as the same has not been already done, upon an area of assessment embracing the lands and premises on each side of the improvement, or as nearly adjacent thereto as said commissioners may deem to be benefited thereby, to cause a map of the same to be made showing the limits of said area of assessment, the names of the parties owning or in possession of the lands within the same, so far as the same can be ascertained, and the quantity of land belonging to such owner, and the quantity belonging to such unknown owners whose names cannot be ascertained, and the location of the same on said map as nearly

1880, ch. 63, §3
Duty of com-
missioners.

1880, ch. 65, §1.
Expenses to be
borne by parties
benefitted.

Id. §3.
Abstract to be
made.

Notice.

as they can ascertain the same, and to make a just and equitable assessment of the value of the benefit and advantage of such improvement to the respective owners, persons or parties in interest, entitled to or interested in the said respective lands and premises within said area of assessment, in proportion as nearly as may be to the advantage which each shall be deemed to acquire thereby, and in each and every case where the owners or parties in interest, or their respective estates and interests are not known or are not fully known to the said commissioners, it shall be sufficient for them to assess and set forth in general terms the respective sums to be paid by the owners and proprietors generally of said lands and premises and parties interested therein, and to report the same to the supreme court without any unnecessary delay. All sums of money which have been or shall hereafter be awarded under and according to the provisions of the acts mentioned in the preceding section to the owners and parties in interest in the lands and premises taken, or which shall hereafter be taken for the purposes of the improvement of the Harlem river and Spuyten Duyvil creek, as just compensation to be made to them for such lands and premises, and the cost and expenses of estimate, assessment, and other proceedings necessarily taken or to be taken under, and authorized by, said acts, shall be borne and paid by the parties and persons interested in and entitled as owners or otherwise to the lands and premises deemed to be benefitted by said improvement, and the same shall be assessed upon such parties and persons, lands and premises. An abstract of the assessment of said commissioners, containing the names of the owners of the parcels of land, so far as the same can be ascertained, the numbers and descriptions of such parcels as they appear upon said map, together with such map, the amount of assessments made against each owner or party in interest, and also all affidavits, estimates or other documents, which were used by said commissioners in making their said report, shall be deposited in the clerk's office of the city and county of New York, for the inspection of whomsoever it may concern, for at least thirty days before said commissioners make their report to said court. They shall give notice of the time and place of making their said report to the court, and of the filing of said abstract, by advertisement to be published for and during the space of twenty days previous to making said report, in at least four of the public newspapers printed in said city, and by posting copies of said advertisement in hand-bills to be posted up for the same space of time in three conspicuous places adjacent to said improvement.

§ 888. Any person or party whose rights may be affected by the said assessment, and who shall object to the same or any part thereof, may, within ten days after the first publication of the said notice, state his, her, or their objections to the same in writing to the said commissioners, which statements shall not be received by them unless verified by his, her, or their affidavits, or the affidavits of other persons; and it shall be the duty of the said commissioners, in all cases, to transmit to said court, together with their said report, all the written statements and affidavits which may have been served upon them within the time aforesaid. And at the expiration of the said ten days it shall be the duty of the said commissioners to give at least ten days' notice, by publication as aforesaid, of a time and place when and where any persons, who may consider themselves aggrieved by such assessment, shall be heard in opposition to the same; and the said commissioners shall have power to adjourn from time to time, within the space of ten judicial days, until such person or persons are fully heard. Said commissioners, or such of them as shall make such assessment, in case any objections be made to them and stated in writing, and verified as aforesaid, shall reconsider their said assessment, or the part or parts thereof so objected to, and in case the same shall appear to them to require correction, but not otherwise, they shall and may correct the same accordingly.

Id. §4.
Rights of persons whose property is affected.

Notice to be published.

§ 889. Upon the coming in of said report, signed by said commissioners, or any two of them, the said court, at a special term thereof, shall, after hearing any matter which may be alleged against the same, either confirm the same report or refer the same to the same commissioners for revisal and correction, or to new commissioners to be appointed by said court to reconsider the subject-matter thereof, and the commissioners, to whom said report shall be so referred, shall return the same report corrected and revised, or a new report to be made by them in the premises, to the said court, and the same, on being so returned, shall be confirmed or again referred by the said court in manner aforesaid as right and justice shall require, and so from time to time until a report shall be made in the premises which the said court shall confirm, and such report, when made, shall be final and conclusive upon the owners, persons or parties in interest and entitled to any lands and premises mentioned in said report, and, also, upon all other persons and parties whatsoever; and the several assessments thereby confirmed shall thereupon become a lien upon the several lands and premises so as aforesaid severally assessed to the extent of the amount so assessed upon each parcel set forth in said report within said area of assessment.

1880, ch. 63, §5.
Proceedings on coming in of report.

Id. §6.
Sums assessed
to be paid to
the comp-
troller.

When to be
paid.

Interest.

Tax warrant to
issue.

What to
contain.

Warrant only
to issue for
excess of ben-
efit over com-
pensation.

§ 890. The sums assessed for benefit as the same shall appear by the report of assessment so as aforesaid confirmed, shall be paid by the parties against whom the same are assessed, to the comptroller of the city of New York, who is hereby authorized to receive and apply the same in the manner hereinafter directed. After the confirmation of said report, the said comptroller shall forthwith cause a notice to be published for twenty days, in three of the public newspapers issued in said city of New York, of the confirmation of said report, that the assessments therein made are to be paid at his office within thirty days from the date of the confirmation of said report, without interest, and that if the same are not paid within ninety days from such confirmation, the proceedings provided for by this, and the following section, will be taken for the enforcement and collection of the same, with interest thereon at the rate of eight per centum after thirty days from such confirmation. Said assessments may be paid to the said comptroller at any time after the confirmation of said report of assessment, and within thirty days thereafter without interest. And if not paid within thirty days thereafter, interest at the rate of eight per centum per annum shall accrue and be paid upon the same until the same are paid, and as to all such assessments as shall not be paid within ninety days from the time said report of assessment is confirmed, the said comptroller is hereby authorized and directed, immediately upon the expiration of said ninety days, to issue his warrant for the collection of such unpaid assessments. Such warrant shall be signed by the said comptroller and directed to the sheriff of the city and county of New York. It shall contain the names of all the persons and parties assessed, who have not paid the sums assessed against them by said report of assessment, the amounts due from such persons and parties respectively; the number and description of the parcels of lands and premises assessed for benefit, owned by such persons or parties respectively, and the amounts due from unknown owners, if any, with the number and description of all parcels assessed to such unknown owners, as set forth in said report of assessment and the map filed therewith. If any such person or parties shall be the owners of, or interested in, any of the lands and premises taken for such improvement, to whom an award for compensation shall have been made in said report of assessment as confirmed, the amount awarded for such compensation shall be deducted from the amount assessed for benefit, and the excess only shall be the sum inserted in said warrant as the sum to be collected from such persons or parties. Said warrant shall command the sheriff to collect from the persons and parties named in said warrant the sum or sums due from them respec-

tively, with interest at the rate of eight per centum per annum from and after the expiration of thirty days from the date of the confirmation of said report of assessment, pursuant to the provisions and under the authority of this act, and to return the same with the moneys collected thereon, to said comptroller within the period of sixty days from the date thereof. The said comptroller is hereby authorized to renew said warrant after the expiration of said sixty days, from time to time, until the whole amount due for said assessments shall be collected.

§ 891. The sheriff of the city and county of New York shall thereupon, by virtue of said warrant and the authority hereby given, collect the several amounts so directed to be collected from the several persons or parties named therein, and from the several lands and premises numbered and described therein, as belonging to such persons or parties, and he shall have the same power to enforce the collection of the same, or any renewal thereof, as if said warrant, or any renewal thereof, were an execution issued in due form of law upon a judgment of a court of record of this State, against the persons and parties named therein as against the several parcels of land and premises numbered and described in said warrant. If any of the parcels numbered and described in said warrant shall be assessed to unknown owners, and the amount so assessed shall not be paid to said sheriff within twenty days after said warrant shall have come into his hands, said sheriff is hereby authorized and directed, immediately after the expiration of said twenty days, to advertise the several parcels so assessed to unknown owners in the same manner and for the same period of time as in the case of known owners, except that for the name or names of the persons or parties as set forth in the notice of sale, and other proceedings subsequent thereto, taken by him, the description of "unknown owners" may be inserted therein. Upon the return by the said sheriff of the warrant first issued by said comptroller, as hereinbefore directed, if there shall be due and uncollected any of the sums assessed in said warrant directed to be collected, the said comptroller is hereby authorized, on the security of said assessments so returned and unpaid, to raise on the assessment bonds of the city in the manner now provided by law, a sum not exceeding fifty thousand dollars, to be applied as in the following section directed. All the collections of such assessments to the extent of the assessment bonds issued, and all proceedings taken for the enforcement and collection of the same shall be for the benefit of the said city of New York.

§ 892. From the moneys so collected by said comptroller, and from the proceeds of said bonds, in case any have been issued pursuant to the provisions of the last section, he shall pay all

Sheriff to collect assessment.
1881, ch. 61, §2.

Sale, in case of unknown owners, if tax is not paid.

Assessment bonds, when to be issued.

1881, ch. 61, §3.
Comptroller to pay awards, etc.

Awards to set off against assessments and excess only to be paid.

sums which have been awarded to the persons or parties as owners, or interested in the lands and premises taken or to be taken for the purpose of said improvement, as the same shall appear by the report of the commissioners of estimate, made in pursuance of the provisions of this title and the said acts, when confirmed, and the expenses, charges, and disbursements of the proceedings taken thereunder, as taxed and certified by a justice of the supreme court; and whenever it shall appear by the report of the commissioners of estimate, and by the report of the commissioners of assessment, that an award for compensation for the lands taken or to be taken for the purposes of said improvement has been made to the same owners or parties in interest, upon whom and upon whose lands and premises an assessment for benefit has been made in which the award for compensation is greater than the assessment for benefit, said comptroller shall pay to said owners or parties in interest the excess only of such compensation so awarded over the amount assessed upon such owners or parties in interest; and whenever an assessment for benefit, upon the owners or parties in interest, of lands and premises within said area of assessment is made against the same owners or parties in interest to whom compensation is awarded for lands and premises taken or to be taken for said improvement, and such assessment for benefit exceeds such award for compensation, such owners or parties in interest shall be liable to pay only such excess, and upon receipt of the amount of such excess, with interest, as above provided, said comptroller is hereby authorized and required to discharge such assessment and the lien created thereby.

1876, ch. 147, §8, Comp. 1225. Proceedings where lands are vested in trustees, etc.

§ 893. In case any title or interest in real estate required by the United States for said improvement shall be vested in any trustee not authorized to sell, release, and convey the same, or in any infant, idiot, or person of unsound mind, the supreme court shall have power, by a summary proceeding or petition, to authorize and empower such trustee, or the general guardian or committee of such infant, idiot, or person of unsound mind, to sell and convey the same to the United States for said improvement, on such terms as may be just; and in case any such infant, idiot, or person of unsound mind, has no general guardian or committee, the said court may appoint a special guardian or committee for the purpose of making such sale, release or conveyance, and may require such security from such general or special guardian, or committee, as said court may deem proper. But before any conveyance or release, authorized by this section, shall be executed, the terms on which the same is to be executed, shall be reported to the court, on oath; and if the court is satisfied that such terms are just to the party interested in such real estate,

the court shall confirm the report, and direct the proper conveyance or release to be executed, which shall have the same effect as if executed by an owner of said land having legal power to sell and convey the same.

§ 894. The commissioners of the sinking fund of the city of New York, or the mayor, aldermen, and commonalty of the city of New York, are hereby authorized to cede, grant, and convey to the United States, upon such terms, and for such consideration as may be agreed upon by and between said commissioners of the sinking fund, or said mayor, aldermen, and commonalty, and the United States, all the estate, right, title, and interest of the city of New York, in and to any part of said land required for said channel. Whenever any part of said land shall have been ceded by said commissioners of the sinking fund, pursuant to the authority hereby given; it shall be the duty of said commissioners of the sinking fund, or a majority of them, to give a certificate under their hands, that the same has been ceded, pursuant to the provisions of this act; and upon the production of such certificate, and upon proof of due compliance, on the part of the United States, with the terms of cession, it shall be the duty of the mayor of said city, and the clerk of the common council, in the name and on behalf of the said mayor, aldermen, and commonalty, to execute a proper conveyance of such lands under their hands and the seal of said city.

1879, ch. 345, § 4
Comp. 1227.
Cession of lands
by city of New
York author-
ized.

Certificate.

Conveyance.

§ 895. If, at any time, after an attempt to acquire title by appraisal of damages or otherwise, it shall be found that the title thereby attempted to be acquired is defective, the United States may proceed anew to acquire or perfect such title in the same manner as if no appraisal had been made; and at any stage of such new proceedings, the court may authorize the United States, if in possession, to continue in possession, and if not in possession, to take possession and use such real estate during the pendency and until the final conclusion of such new proceedings; and may stay all actions or proceedings against any agent of the United States on account thereof on his giving security as the court may direct, to pay the compensation therefor when finally ascertained; and in every such case the party interested in such real estate may conduct the proceedings to a conclusion if the United States delays or omits to prosecute the same. The court in which proceedings taken under the acts referred to in section eight hundred and eighty-six of this act may be pending may amend the same or any orders heretofore made therein, so as to make the same conform with the provisions of said section and the subsequent sections of this title.

1876, ch. 147, § 7.
Comp. 1221.
Defective titles.

Id. § 7.

§ 896. The cost and expense of the removal of the structure of the reservoir on Fifth avenue, between Fortieth and Forty-

1881, ch. 456, § 2.
Assessment
for removal of
reservoir.

second streets, and of grading the ground now occupied by it, shall be paid by the owners of property within the following limits: The westerly side of Sixth avenue, the southerly side of Thirty-seventh street, the easterly side of Madison avenue, and the northerly side of Forty-fifth street; the same to be assessed and collected by the board of assessors in like manner as assessments for local improvements.

Title 3.—Vacating and Modifying Assessments.

1858, ch. 338, §2, as amended
1874, ch. 312, §2, Comp. 719; 55 N. Y. 861; 39 N. Y. Sup. 192; 10 Abb. 481; 17 id. 324; 12 id. 124; 17 How. 459; 23 id. 118.

1858, ch. 338, §§1, 2, as amended
1874, ch. 312, §§1, 2, Comp. 719.

1870, ch. 388, §27, Comp. 720.

Fraud or substantial error in assessment, remedy for.

75 N. Y. 324, 388, 394; 10 Abb. N. S. 234; 62 N. Y. 224; 19 How.

317; 11 Abb.

164; 79 N. Y.

384; 14 Abb. 56; 1 Abb. N. S.

440; 31 How. 16; 18 How. 460; 46 N. Y. 100; 8

Hun. 513; 52 N. Y. 60; 50 N. Y.

509; 68 N. Y.

210; 55 How.

296; 76 N. Y.

174; 77 N. Y.

170; 69 N. Y.

452; 78 N. Y.

109, 601; 20

Hun. 346; 44

Barb. 46; 19

Abb. 140; 36

How. 390; 54

Barb. 225; 6

Rob. 463; 51

Barb. 275; 60 id.

377, 26, 457; 17

Hun. 527; 18 id.

327; 23 How. 178.

Assessment to be vacated for fraud or error.

1872, ch. 580, §7, as amended

1874, ch. 313, §1, Comp. 723.

Assessment not to be set aside for irregularity, etc.

35 N. Y. 361; 60

id. 16; 62 id. 224,

580; 66 id. 395;

67 id. 441; 70 id.

190; 2 Hun. 221,

281; 3 id. 65; 5

id. 287, 442; 6 id.

68; 62 N. Y. 618,

624; 5 Daly. 347;

§ 897. No suit or action in the nature of a bill in equity or otherwise shall be commenced for the vacation of any assessment in said city, or to remove a cloud upon title; but owners of property shall be confined to their remedies in such cases to the proceedings under this title.

§ 898. If, in the proceedings relative to any assessment or assessments for local improvements, or in the proceedings to collect the same, any fraud or substantial error shall be alleged to have been committed, the party aggrieved thereby may apply to a judge of the supreme court, in special term or in vacation, who shall thereupon, upon due notice to the counsel of the corporation, proceed forthwith to hear the proofs and allegations of the parties. If, upon such hearing, it shall appear that the alleged fraud or substantial error, other than such errors as are specified in the next section, has been committed as provided in this title, the said assessment shall be vacated or modified, and the lien created thereby, or by any subsequent proceedings, shall cease. If, upon such hearing, it shall appear that, by reason of any alleged irregularity, the expense of any local improvement has been unlawfully increased, the judge may order that such assessment upon the lands of said aggrieved party be modified by deducting therefrom such sum as is in the same proportion to such assessment as is the whole amount of such unlawful increase to the whole amount of the expense of such local improvement.

§ 899. No assessment heretofore made or imposed, or which shall hereafter be made or imposed for any local improvement or other public work in the said city, already completed or now being made or performed, or which shall hereafter be made, done or performed, shall hereafter be vacated or set aside for or by reason of any omission to advertise, or irregularity in advertising any ordinance, resolution, notice, or other proceeding relative to or authorizing the improvement or work for which such assessment shall have been made or imposed, or for proposals to do the work, or for or by reason of the omission of any officer to perform any duty imposed upon him, or for or by rea-

son of any defect in the authority of any department or officer upon whose action the assessment shall be in any manner or to any extent dependent, or for or by reason of any omission to comply with or carry out any detail of any law or ordinance, or for or by reason of any irregularity or technicality, except only in cases in which fraud shall be shown and in case of assessment for repaving any street or public place, upon property for which an assessment has once been paid for paving the same street or public place; and all property in said city benefited by any improvement or other public work already completed or now being made or performed, and hereafter made, done, or performed, except as aforesaid, shall be liable to assessment for such improvement or work, and all assessments for any such improvement or other public work shall be valid and binding notwithstanding any such omission, irregularity, defect in authority, or technicality. No assessment shall be vacated by reason of fraud or irregularity in the proceedings to collect the same by sale of the assessed premises; but, upon proof of such fraud or irregularity, such sale shall be set aside and the respective rights and liabilities of the assessed persons, and of the mayor, aldermen, and commonalty, shall become and be the same as if such sale had not been made.

56 How, 416.
460; 39 N. Y.
Supr. 120; 78 N.
Y. 109; 21 Hun.
555, 579.
Fraud.

1870, ch. 383, §27.
Comp. 721.
21 Hun, 180.
Sales of
assessed
premises.

§ 900. Any order vacating said assessments shall be entered in the office of the clerk of the supreme court, and on filing a certified copy thereof with the officer having charge of the assessment lists, it shall be the duty of said officer to cancel thereon the assessments so vacated, and all proceedings under the same; and the justice who shall have made such order may enforce the same, either by attachment for contempt or by writ of mandamus, or both, against any party refusing to obey the same, with costs.

1858, ch. 398, §3,
as amended
1868, ch. 193, §1.
Comp. 720.
Unchanged.
Orders
vacating
assessments.

§ 901. Any person applying for relief, under the provisions of this title, may embrace in one proceeding any or all assessments for local improvements in which he is interested.

Id. §1.

§ 902. The foregoing sections, from section eight hundred and ninety-eight to section nine hundred and one, inclusive, apply to the following proceedings and no others:

1880, ch. 550.
§§4, 12.

First—To proceedings or actions commenced on or before the ninth day of September, eighteen hundred and eighty, to vacate or set aside assessments for any local improvement confirmed by the board for the revision and correction of assessments before June ninth, eighteen hundred and eighty, or in which proceedings or actions were pending on said last-named day, or in which the time to appeal had not then expired, or in which the order or judgment had not been then carried into effect.

To what
sections apply.

Second—To proceedings or actions which since June ninth, eighteen hundred and eighty, have been commenced or may hereafter be commenced, to vacate or set aside any assessment completed before said day and confirmed by the board for the revision and correction of assessments after said day; provided in each case such proceedings or action was or shall be commenced within three months after the date of such confirmation.

Third—To proceedings or actions to vacate or set aside any assessments for the local improvements known as Morningside avenues, when confirmed by the board for the revision and correction of assessments; provided such proceedings or actions were or shall be commenced within three months after the date of such confirmation; provided that if any such proceeding or action in this section referred to is dismissed or such relief refused, and it shall appear in the order dismissing or denying such application that such dismissal or denial is on account of some irregularity, technicality, informality, mistake, or other omission or defect of form therein (in which case it shall be the duty of the court to specify the same in such order), the party thereto shall be entitled to make such further or other applications as he may be advised, within twenty days after the date of an order directing such dismissal or refusal, and none of the provisions of the subsequent sections of this title shall apply to or effect such further or other application so made for the purposes aforesaid.

And further provided, that if on a final decision in any proceeding or action pending on June ninth, eighteen hundred and eighty, or which may be commenced or renewed as aforesaid, the decision or judgment therein shall be in favor of the city, the petitioner or plaintiff in such proceeding or action shall have obtained the benefits of sections nine hundred and six to nine hundred and fourteen, by filing the notice provided in section nine hundred and seven hereof on or before the first day of May, eighteen hundred and eighty-one, the said commissioners must proceed as if such notice had been filed as in said section provided.

1880, ch. 550, §12.
Limitation on
power of court
on assess-
ments.

§ 903. No court shall vacate or reduce any assessment in fact or apparent, confirmed after June ninth, eighteen hundred and eighty, whether void or voidable, on any property for any local improvement hereafter completed otherwise than to reduce any such assessment to the extent that the same may be shown by parties complaining thereof, to have been in fact increased in dollars and cents by reason of fraud or substantial error; and in no event shall that proportion of any such assessment which is equivalent to the fair value of any actual local improvement

with interest from the date of confirmation, be disturbed for any cause. Nothing in this section shall apply to any assessment which may be imposed for the local improvement known as Morningside avenue.

§ 904. All proceedings to vacate or reduce assessments in the city of New York other than those specified in the last section but one must be brought within one year after the confirmation thereof.

§ 905. Any lands which may be discharged from any lien for an assessment for any local improvement, may be again assessed, in the manner provided by law, for such amount as would have been justly chargeable if fraud or irregularity had not been committed; but the amount so assessed shall be a lien on said lands until paid, and shall be collectible in the manner provided by law for the collection of assessments, but all proceedings to make a new assessment shall be at the expense of the corporation of the city.

1868, ch. 388, § 3,
Comp. 720.
Reassessment.
4 Hun, 624;
6 Hun, 513.

§ 906. Any assessment for any local improvement in the city of New York, confirmed by the board for the revision and correction of assessments in said city before June ninth, eighteen hundred and eighty, and, also, any assessment for any local improvement theretofore completed which may be hereafter confirmed by said board, and any assessment for the local improvements known as Morningside avenues, when confirmed by said board, may be vacated, modified, set aside, revised, or confirmed in conformity with the provisions hereinafter in this title contained, and not otherwise. Any assessment for the local improvements known as Morningside avenues shall be finally acted upon by such board for the revision and correction of assessments within three months after the completion of the same.

1880, ch. 550, § 1.
Assessments
may be va-
cated.

§ 907. The commissioners hereinafter designated and named, or a majority of them, shall, for the purposes of the following sections of this title, have jurisdiction to revise, vacate or modify any of the assessments for any local improvement confirmed by the board for the revision and correcting of assessments before the ninth day of June, eighteen hundred and eighty, and any assessment for a local improvement confirmed before said date which has been or shall be hereafter confirmed by said board, and every assessment for the local improvements known as Morningside avenues, when confirmed by said board, when the owner or owners of the real estate affected by such assessment, or other party or parties affected, thereby shall have filed with the comptroller of said city a notice specifying the particular assessment complained of, the date of the confirmation of the same, the property of such owner or party affected, and in a brief and concise manner the objections thereto, showing or

Id. § 2.
Jurisdiction of
commissioners.

Notice.

To be filed.	tending to show that the assessment was unfair or unjust in respect to said real estate. Such notice must be or must have been filed with the said comptroller, and a duplicate thereof with the counsel of the corporation, as follows:
When.	<p>1. As to all assessments confirmed before June ninth, eighteen hundred and eighty, on or before the first day of November, eighteen hundred and eighty.</p> <p>2. As to all assessments confirmed after June ninth, eighteen hundred and eighty, for local improvements theretofore completed, and as to any assessment for the local improvements known as Morningside avenues, within two months after the dates upon which such assessments may be respectively confirmed.</p>
Id. §8. Commissioners to inquire into facts, etc.	§ 908. It shall be the duty of said commissioners, or a majority of them, to inquire into the facts or circumstances relating to any assessments to which objections may be made and the notice filed as aforesaid, and to hear the evidence in support of such objections or in opposition thereto, and on every such inquiry and hearing to administer oaths or affirmations to all persons testifying, and after duly considering the evidence, to determine whether substantial injustice was caused by the confirmation of such assessments or otherwise; and any assessments as to which the commissioners, upon such inquiry, may determine that substantial injustice has been caused by the confirmation of the same or otherwise, may be revised, modified, or vacated by the said commissioners, and they may award such relief to the respective parties filing such applications as shall be, under the circumstances and on the evidence presented, just and equitable; and they shall, in determining such relief, consider the fair value of the work done, for which the assessment is imposed, and the amount of benefits conferred over and above the damages, if any, caused by the improvement. A majority of said commissioners shall constitute a quorum for the hearing of any application, and the relief granted must be concurred in by at least a majority of the commissioners. They or any person who has filed any such application, or the counsel for said city as hereinafter provided, shall have power to summon witnesses and require the production of books and papers, and the attendance of witnesses, and the production of books and papers may be compelled under and pursuant to the provisions of title two of chapter nine of the Code of Civil Procedure.
May revise, modify, or vacate unjust assessments and award relief.	
Quorum.	
Summons to witnesses.	
Id. §4. Counsel to corporation to defend city.	§ 909. It shall be the duty of the present counsel to the corporation properly to protect, maintain, and defend the interest of the city in relation to all matters before said commissioners, pursuant to the provisions of this title.

§ 910. Edward Cooper, John Kelly, Allan Campbell, George H. Andrews, and Daniel Lord, Jr., of said city are commissioners for the purposes of this title, with power to appoint clerks and stenographers. Notice of all meetings of said commissioners given by publication in the City Record and the Daily Register, in such form as they shall determine, shall be sufficient for all purposes, and such meetings shall be held as frequently as necessary for the despatch of the duties hereby imposed upon them. All meetings, except for consultation and decision, shall be public. A minute book shall be kept by them, or under their supervision, in which shall be entered a faithful record of all the proceedings of said commissioners, which shall be at all times open to the public for inspection, and on the final adjournment of the commissioners shall be filed in duplicate in the finance department and in the office of the clerk of the common council. The said commissioners, or a majority of them, shall have full power to determine the order and manner in which cases shall be heard, and in which evidence shall be taken; to decide all questions as to the competency, relevancy and materiality of testimony; to fix and limit the time within which evidence and argument in each case may be submitted; and generally, except as herein specifically provided, to determine and prescribe the mode and manner in which all proceedings taken before them or under sections nine hundred and seven to nine hundred and thirteen of this act, inclusive, shall be conducted. All evidence, whether offered on behalf of the property-owners or the city, was required to be submitted before July first, eighteen hundred and eighty-one, and the decision of the commissioners, or a majority of them, in every case required to be rendered in writing, on or before September thirteenth, eighteen hundred and eighty-one, on which last-mentioned day the jurisdiction and authority of said commissioners ceased except as hereinafter otherwise provided. The time for filing the notice provided by section nine hundred and seven for the submission of evidence, or for the making of a decision by the commissioners, may be extended beyond the time herein specified by the supreme court in the first judicial district in such manner and upon such notice as the court may direct. In case of the death, resignation, refusal, or failure to act of any one or more of the aforesaid commissioners, then and in that case every power conferred and every duty devolved upon the said commissioners shall be possessed and exercised by the remainder of said commissioners, or a majority of them, and a certificate signed and filed as herein provided, by such majority, shall be valid and effectual for every purpose of said sections of this title.

Id. §5.
Commissioners.

Notice of
meetings.
Minute book.

Manner in
which cases
shall be heard,
etc.

Evidence to be
taken before
July 1, 1881.

Time for filing
notices.

In case of
death, etc., of
commissioner,
remainder to
act.

1880, ch. 550, §6.
Relief to be
awarded.

§ 911. The said commissioners shall award such relief as in their judgment is just and equitable in view of the circumstances of each case brought before them by the notice aforesaid, and shall determine what relief, if any, is to be awarded in respect of each lot or parcel of land, and what reduction, if any, is to be allowed upon such lot or parcel, and thereupon they shall file in each case a certificate, signed by a majority of the said commissioners, in the department of finance in said city, specifying the relief awarded by them, and upon such filing the assessment on each lot or parcel shall be revised, modified, or vacated, as in said certificate specified, and the amounts fixed by such certificate, with interest thereon from the date thereof, and no more, shall thereafter be the extent of the lien upon such lots or parcels in respect of such assessment.

Id. §10.

Awards to
persons who
have paid
assessments.

§ 912. Whenever, prior to June ninth, eighteen hundred and eighty, any assessment for any local improvement imposed upon any particular lot or lots has been paid in whole or in part, and the assessment for such local improvement upon any other lot or lots shall be vacated, revised, or modified by the commissioners as herein authorized, it shall be the duty of said commissioners to award and adjudge to the person or persons by whom such payments have been made, their legal representatives or assigns, an amount equal to the amount of reduction to which such parties would have been entitled if they had not made such payment, the amount of which award shall be proportionately equal to the reduction upon other lots so revised or modified as aforesaid. The said commissioners shall file in the finance department certificates in each case showing the amount of such awards, and the persons to whom the same are made; and the amounts thereof respectively shall thereupon become a charge against the mayor, aldermen, and commonalty of the city of New York in favor of the respective persons to whom the same shall be made as aforesaid, and shall be provided for by the issue of assessment bonds of said city. Nothing in this section contained shall be held to apply where less than one-half of the entire expense of the improvement assessed upon all the property deemed to be benefited thereby, exclusive of such portion of the expenses of the improvement imposed upon said city or its property, remained on the first day of May, eighteen hundred and eighty, a lien or apparent lien upon said property deemed to be benefited.

Certificates of
awards to be
filed.

Section not to
apply to
certain
assessments.

1880, ch. 550, §9.
Lien of
assessments
not vacated,
etc., not to be
disturbed.

§ 913. The lien of any assessment specified in section nine hundred and two, not vacated, reduced, or set aside in any proceeding or action in said section mentioned, or not vacated, revised, or modified by the said commissioners pursuant to the provisions of this title, shall not be disturbed, modified, or

vacated except in the manner and to the extent provided in section nine hundred and three.

§ 914. None of the provisions of sections nine hundred and six to nine hundred and thirteen, inclusive, shall apply to any reassessment hereafter made or imposed for any local improvement for which an assessment has been or shall be vacated in whole or in part. Id. §15.

Title 4.—Sales of Land for Taxes, Assessments, and Water Rates.

§ 915. All taxes and all assessments for city improvements, and all regular Croton water rents, and the interest and charges thereon, which may be laid, or have heretofore been laid, upon any real estate in the city and county of New York, shall be and continue to be, until paid, a lien thereon, and shall be preferred in payment to all other charges. No assessment for any city improvement shall be deemed to be fully confirmed, so as to be due and be a lien upon the property included in the assessment, until the title thereof, with the date of confirmation by the supreme court, or by the board of revision and correction of assessments, as the case may be, shall be entered, with the date of such entry, in a record of the titles of assessments confirmed, to be kept in the office of the bureau of the clerk of arrears.

1871, ch. 331, §1.
Comp. 573.
Taxes, assessments, and water rents to be a lien upon lands.

Confirmation of assessments, how entered.
66 N. Y. 622; 39 N. Y. Superior. 255; 54 N. Y. 186.

§ 916. It shall be the duty of the comptroller to give public notice, by advertisement, for at least ten days, in the City Record, immediately after the confirmation of any assessment for a local improvement, that the same has been confirmed, specifying the title of such assessment, and the date of its confirmation by the board of revision and correction of assessments, and also the date of entry in the record of titles of assessments kept in the bureau for the collection of assessments and of arrears of taxes and assessments, and of Croton water rents, notifying all persons, owners of property affected by any such assessment, that, unless the amount assessed for benefit on any person or property shall be paid within sixty days after the date of said entry of any such assessment, interest shall thereafter be collected thereon as provided in the following section; and all provisions of law or ordinance requiring any other or different notice of assessments and interest thereon are hereby repealed.

1861, ch. 33, §§4, 5.
Comptroller to publish notice of confirmation of assessment, etc.

§ 917. If any such assessment shall remain unpaid for the period of sixty days after the date of entry thereof in the said records of titles of assessments, it shall be the duty of the officer, authorized to collect and receive the amount of such assessment, to charge, collect, and receive interest thereon, at the rate of seven per centum per annum, to be calculated from the date of such entry to the date of payment.

Interest to be charged if not paid within sixty days.

1833, ch. 579, §15,
Comp. 582.
1881, ch. 33, §3.
Interest to be
charged.

§ 918. Interest shall hereafter be charged and collected at the rate of seven per cent. per annum on all arrears of taxes and assessments returned to the clerk of arrears from the time they become due until paid, and on the "regular rents" and charges for Croton water from the time the taxes become due, to which they may be added as required by section nine hundred and twenty-three until paid. The provision of this title relating to the rate of interest shall apply to taxes, assessments, or Croton water rents remaining unpaid and due, for the non-payment of which the lands and tenements liable therefor shall have been sold since the sixteenth day of March, eighteen hundred and eighty-one, or shall hereafter be sold at public auction; but such provisions shall not be construed to affect the rights of purchasers at sales for taxes, assessments, or Croton water rents, made before March sixteenth, eighteen hundred and eighty-one, or to authorize the redemption of lands and tenements from sales theretofore made for any lesser sums than the sums collectible for such redemption under the provisions of laws then existing.

1871, ch. 381, §19,
Comp. 579.
Apportionment
of assessments.

§ 919. If a sum of money in gross has been or shall be assessed for city improvements upon any lands or premises in the city of New York, any person or persons claiming any dividend or undivided part thereof may pay such part of the sum of money so assessed, also of the interest and charges due or charged thereon, as the comptroller may deem to be just and equitable; and the remainder of the sum of money so assessed, together with the interest and charges, shall be a lien upon the residue of the land and premises only, which residue may be sold in pursuance of the provisions of this act, to satisfy the residue of such assessment, interest or charges, in the same manner as though the residue of said assessment had been imposed upon the residue of said lands or premises.

Assessments
payable in
yearly install-
ments of five
per centum of
whole amount.
1881, ch. 544,
§§1, 3, 4, 5.

§ 920. The assessment for benefit in all proceedings pending on the sixteenth day of June, eighteen hundred and eighty-one, or thereafter commenced or to be commenced to acquire title to lands in the Twelfth ward, north of One Hundred and Fifty-fifth street, and the Twenty-third and Twenty-fourth wards, for a street, avenue, or public place, or for the opening or widening thereof, and all assessments levied for grading, regulating, paving, and sewers in said territory, and all assessments heretofore levied therein for any of said purposes, shall be payable in yearly installments of five per centum of the whole amount of each of such assessments, together with seven per centum interest on the whole amount unpaid in any year, which yearly installment and interest shall be levied and collected with the annual taxes upon the property so assessed, and payment thereof enforced in the same manner as such taxes and with the same penalties. Any

person whose property is assessed for any of the purposes specified in this section may pay the whole of such assessments and all the interest due thereon at any time. The amounts assessed each year upon the several parcels of land assessed for any of the aforesaid purposes and all arrears so assessed shall as between vendor and vendee or upon a judicial sale thereof be deemed the amount due on such assessment upon each parcel, unless otherwise expressed in writing between the parties. The said comptroller is directed, upon the application of any owner of any part of a parcel embraced in a single assessment, to apportion the amount to be assessed against such part and the remainder of such parcel and payment of the sums so apportioned of the yearly portion thereof provided for in this section shall discharge such part from the lien of said assessment.

Persons assessed may pay whole amount.

Amount to be deemed due on judicial sale.

Apportionment of assessments.

§ 921. The commissioner of public works shall annually, on the last day of the month of April, cause to be prepared and transmitted to the clerk of arrears a separate account, for each ward, of all lots in which the regular rents for that water year may remain unpaid, with the amount due on each lot, and shall at the time notify the comptroller of the aggregate amount of the regular rents so returned, and shall thereafter receive no payments on account of the same, but may, nevertheless, certify to the clerk of arrears any overcharges which shall upon such certificate be remitted by the clerk of arrears at any time before settlement.

1853, ch. 579, §9, as amended.
1854, ch. 235, §1.
Comp. 581.

§ 922. The receiver of taxes shall, on the first day of June in each year, make a return to the clerk of arrears, of all taxes on real estate, and of "regular rents" of Croton water, which have been added thereto, remaining unpaid, and shall notify the comptroller of the aggregate amount of arrears so returned, and balance on his books the accounts of arrears so returned, by charging the amount thereof to the bureau of arrears, and shall thereafter receive no payments on account of arrears so returned, but may nevertheless certify to the clerk of arrears any errors which shall, upon such certificate, be corrected by the clerk of arrears any time before settlement.

1853, ch. 579, §11.
Comp. 581.
Receiver of taxes.

§ 923. There shall be ruled in the yearly assessments rolls for taxes of each ward, a column headed "regular rents," in which, immediately after the confirmation of such assessment rolls, the clerk of arrears shall cause to be entered, opposite to the ward numbers of the property on which the said arrears may be due, the amounts due for "regular rents" for water, as transmitted to him by the commissioner of public works in accordance with law, and the same shall be collected at the same time, and in the same manner, with the taxes to which they shall be added.

1853, ch. 579, §10.
Comp. 581.
Water rents.

1853, ch. 579, §12,
Comp. 582.
Arrears.

§ 924. There shall be ruled in the yearly assessment rolls of the taxes in each ward a column headed "arrears," in which the clerk of arrears shall, annually, before any taxes for the year are collected, cause to be entered the word "arrears," or "sold," according as the fact may be opposite to the ward numbers on which any arrears of taxes or of taxes with the regular rents of Croton water added shall be due, or on which any assessment shall remain unpaid, which was due or confirmed, thirteen months prior to the first of June, then last past, or which may have been sold for assessments, taxes, or regular rents of Croton water, and yet be redeemable.

Id. §13.
Arrears.

Record to be
kept, of lots in
arrears or sold.

§ 925. There shall be ruled a column headed "arrears," in every bill rendered for taxes, for lots on which said arrears for assessments, taxes, or taxes with "regular rents," for Croton water added, be may due as aforesaid, or which may have been sold and yet be redeemable; in which shall be written opposite the entry of the ward number of said lots, "arrears," or "sold," according as the fact may be; and it is hereby declared to be the duty of the receiver of taxes to cause a record to be kept of the ward numbers of all lots so noted in said bill as in arrears, or sold, when said bills are presented for settlement, and at the bottom of said bills shall be printed "The column for arrears, indicates lots sold for arrears, or to be sold therefor; arrears to be paid and lots redeemed at the office of the clerk of arrears."

1871, ch. 381, §3,
Comp. 573.
Lands for un-
paid taxes,
assessments,
and water
rents.

Notice thereof
by advertise-
ment.

Manner of sale.

§ 926. Whenever any tax on lands or tenements, or any assessments on lands or tenements for city improvements, shall remain unpaid for the term of three years from the time the same shall have been confirmed, and also whenever any regular rents for Croton water in said city shall have been due and unpaid for the term of four years from the time the same shall have been due, it shall and may be lawful for the clerk of arrears, under the direction of the comptroller, to advertise the said lands and tenements or any of them for sale, and by such advertisement the owner or owners of such lands and tenements respectively shall be required to pay the amount of such tax, assessment, or Croton water rents so remaining unpaid, together with the interest thereon at the rate of twelve per cent. per annum to the time of payment, with the charges of such notice and advertisement, to the clerk of arrears, and notice shall be given by such advertisement that if default shall be made in such payment such lands and tenements will be sold at public auction at a day and place therein to be specified, for the lowest term of years at which any person or persons shall offer to take the same in consideration of advancing the said tax, assessment, or Croton water rents, as the case may be, and the interest thereon as aforesaid to the time of sale, and together

with the charges of the above-mentioned notice and advertisement and all other costs and charges accrued thereon; and if, notwithstanding such notice, the owner or owners shall refuse or neglect to pay such tax, assessment, or Croton water rents, with the interest as aforesaid, and the charges attending such notice and advertisement, then it shall and may be lawful for the said clerk of arrears, under the direction of the said comptroller, to cause such lands and tenements to be sold at public auction for a term of years, for the purpose and in the manner expressed in the said advertisement, and such sale shall be made on the day and at the place for that purpose mentioned in the said advertisement, and shall be continued from time to time, if necessary, until all the lands and tenements so advertised shall be sold; and the said clerk of arrears shall give to the purchaser or purchasers of any such lands and tenements a certificate, in writing, describing the lands and tenements so purchased, the term of years for which the same shall have been sold, the sum paid therefor, and the time when the purchaser will be entitled to a lease for the said lands and tenements. But no houses or lots, or improved or unimproved lands, in the city and county of New York, shall be hereafter sold or leased at public auction for the non-payment of any tax, assessment, or Croton water rents which may be due thereon, unless notice of such sale shall have been published once in each week successively for three months, in the City Record, or, when authorized pursuant to section sixty-six of this act, in ten of the daily newspapers printed and published in said city, which advertisement shall contain, appended to said notice, a particular and detailed statement of the property to be sold for taxes, assessments, or Croton water rents; or the said detailed statement and description, instead of being published in the City Record or in a newspaper shall, at the option of the said comptroller, be printed in a pamphlet; in which case copies of the pamphlet shall be deposited in the office of the bureau of the clerk of arrears, and shall be delivered to any person applying therefor. And the notice provided for in this section to be given of the sale of houses and lots and improved and unimproved lands shall also state that the detailed statement of the taxes, assessments, or Croton water rents, and the ownership of the property taxed, assessed, and on which the Croton water rents are unpaid, is published in the City Record or in one of the daily papers, naming the same, or in a pamphlet, as the case may be, and that copies of the pamphlet are deposited in the office of the bureau of the clerk of arrears, and will be delivered to any person applying for the same. No other notice or demand of the tax, assessment, or Croton water rents shall

Delivery of certificate to purchaser.

Notice of sale, how published

Pamphlet copies of description of lands, etc., how deposited.

be required to authorize the sale of any lands and tenements as hereinbefore provided.

1871, ch. 381, §8,
Comp. 576.
Contiguous
lots, when to be
advertised as
one parcel.

§ 927. In advertising houses and lots and improved or unimproved lands to be sold for the non-payment of taxes and assessments, or Croton water rents, it shall be the duty of the said clerk of arrears to advertise all the houses and lots or other lands lying contiguous to each other and belonging to the same owner in one parcel, unless otherwise requested by such owner, but he may sell separately the said houses and lots as the same may have been assessed.

1841, ch. 171, §3,
Comp. 604.

1871, ch. 381, §5,
6, Comp. 576.
Postponement
of sales.

§ 928. It shall be lawful for the comptroller to suspend or postpone any sale or sales of lands and tenements or any portion thereof which shall have been advertised for sale, to any time not exceeding fifteen months from the day specified in any such advertisement. All sales which shall be so postponed or suspended shall be made without further advertisement, other than a general notice of such postponement, to be published in the City Record or, when authorized pursuant to section sixty-six of this act, in two or more of the daily newspapers in the city of New York, at least once a week until the time of sale, and such sale, when made, shall be as valid and effectual as if the same had taken place at the time for that purpose first advertised.

Notice of post-
ponement, how
published.

1871, ch. 381, §22,
Comp. 579.
No auction fees
allowed.

§ 929. The clerk of arrears or his assistant shall conduct the sales hereinabove provided to be made, and no auctioneer other than said clerk or his assistant shall be employed to make such sale, and no auctioneer's fees shall be charged thereon. Certificates of sale shall be made and delivered to the purchaser without charge.

Id. §9,
Comp. 578.
1873, ch. 613, §7,
as amended
1874, ch. 329, §7,
Comp. 595.
Sales of certain
land for unpaid
taxes to be
made by the
treasurer of
Westchester
Co.
1873, ch. 613, §4,
as amended
1874, ch. 329, §4,
Comp. 594.

§ 930. All sales of land situate in the Twenty-third or Twenty-fourth wards for unpaid taxes levied in any year prior to eighteen hundred and seventy-four, shall be made by the treasurer of the county of Westchester. The said treasurer is authorized to take the same proceedings for the sale of lands for unpaid school taxes imposed upon property in the towns of Morrisania, West Farms, and Kingsbridge, as formerly constituted, which remained uncollected at the time when the returns of the receiver of taxes of the towns of Morrisania and West Farms and the collector of taxes of the town of Kingsbridge were made in the year eighteen hundred and seventy-three to said treasurer; and he is authorized to sell the same in the manner provided by law for such proceedings and sales in the county of Westchester.

1871, ch. 381, §10,
Comp. 576.
Lands to be bid
in for city, in
absence of
bidders.

§ 931. It shall be lawful for the clerk of arrears, at any sale of lands and tenements in the city and county of New York for taxes, assessments, or Croton water rents, to bid in, for the mayor, aldermen, and commonalty, every lot and premises so

put up for sale for which no person shall offer to bid, and certificates of such sales shall be made by the said clerk of arrears to the said mayor, aldermen, and commonalty, in form and manner as is prescribed in the section nine hundred and twenty-six. All such purchases shall be subject to the same rights of redemption as purchases by individuals; and if the lands and tenements sold shall not be redeemed, or shall not have been assigned, the comptroller of the city shall execute a lease therefor to the said mayor, aldermen, and commonalty, with the same effect as in cases of leases to individuals in this title provided.

Rights of redemption.

§ 932. It shall be the duty of said clerk of arrears, in all cases of purchases of lands and tenements by the said mayor, aldermen, and commonalty for taxes, assessments, or Croton water rents, to assign any and all such purchases to any person who shall at any time within one year from the time when such purchases were made, offer to take the same, upon his or her paying to the said clerk of arrears, for the use of the said mayor, aldermen, and commonalty, the purchase money, with seven per cent. interest thereon. The person so receiving the assignment shall be entitled, upon the redemption of the property, to receive the amount so paid by him or her to the said mayor, aldermen, or commonalty, with interest from the time of such payment at the rate and in the same manner as if he or she had purchased the property at a sale for taxes, assessments, or Croton water rents.

Id. §11.
Purchases of lands by city, when and how assigned.

§ 933. In all cases where lands within the Twenty-third or Twenty-fourth wards have been heretofore, or may hereafter be, sold by the county treasurer of Westchester county for unpaid taxes, and which lands have been bid in by said treasurer in the name of the respective towns now embraced in said wards, and said towns have become entitled to a certificate of sale, lease or leases of said lands, such certificate of sale, lease or leases shall be executed and delivered by said county treasurer to the comptroller of the city, and the said comptroller is hereby authorized and empowered to assign such certificate of sale, lease or leases to the owner or owners of the lands which have been sold as aforesaid, upon such owner or owners paying to him the amount of such tax and interest as provided by the laws under which such sales were made, together with all charges accrued thereon, and the moneys so received shall be paid by the comptroller to the contingent fund of said city.

1873, ch. 613 §7, as amended
1874, ch. 329, §7, Comp. 597.

When towns have become entitled to certificate of sale, etc., the same to be delivered to the city comptroller.

§ 934. In all cases of lands and tenements purchased by the said mayor, aldermen, and commonalty for taxes, assessments, or Croton water rents, in which the same shall not have been assigned as hereinbefore provided, any person claiming title to

1871, ch. 381, §12, Comp. 577.
Redemption of lands purchased by city.

such lands and tenements, or any other person, may redeem the same in like manner and to the same effect as in cases of individual purchases, by paying, in the manner provided by law, for the use of the said mayor, aldermen, and commonalty, the purchase money with seven per cent. interest thereon, together with any and all expenses which shall have accrued since the sale; and in all cases where lands and tenements shall be conveyed to the said mayor, aldermen, and commonalty pursuant to the provisions of this title, it shall be the duty of the said clerk of arrears, in the name of the said mayor, aldermen, and commonalty, to cause notices to be served in the manner in this title provided.

Service of notice, in case of conveyances to city.

1819, ch. 69, §§ 1, 2, Comp. 1159.
Certain unclaimed lands to be taken possession of.

§ 935. It shall be lawful for the mayor, aldermen and commonalty, and they are hereby authorized and empowered, to take peaceable possession of, or sue for and recover, and to hold, occupy and enjoy all lots or pieces or parcels of land, situate, lying and being in the same city, which have or which may be sold for a term of time for the payment of any taxes or assessments in the said city, after the expiration of the term for which the same may have been or shall be so sold, provided the rightful owner of the same shall not then claim possession of the same, and to have, hold, and occupy the same until the rightful owner shall claim possession of the same, and shall pay all sums which may be due thereon for taxes, assessments and also the value of the improvements which may be made, or erected upon the same by the mayor, aldermen and commonalty, over and above all the rents, issues and profits which may be received by the mayor, aldermen and commonalty for or on account of the rents, issues and profits of any such premises; provided always, that the said mayor, aldermen and commonalty shall not be entitled to demand any sum of money for any such improvements, unless they shall have caused to be published, in at least two of the public newspapers printed in the said city, for at least three months previous to the making of such improvements, a notification to the owners of the said lots, to appear and take possession of their said premises; and further, that in no case shall the owners of the said premises be compelled to pay for any such improvements a sum exceeding two-thirds of the value of their said lots of land. The mayor, aldermen and commonalty shall account for and pay over to the rightful owner of any such lots of land, all the rents, issues and profits which they may receive on account of such premises over and above the amount of all taxes and assessments due for or on account of the said premises, and over and above the value of all such improvements thereon as shall be made after the

City to account for rents, etc.

notification mentioned in this section, and as shall not exceed two-thirds of the value of said lots of land.

§ 936. In cases of sales of real estate for the non-payment of taxes or assessments it shall be the duty of the clerk of arrears, sixty days before the time limited by the law for the redemption of any real estate from the effect of such sales, to cause notice to be given to all mortgagees of the real estate so sold, their assignees or personal representatives, and to all owners, lessees, or persons otherwise interested, or their legal representatives, who shall at any time, at least one month before the time for the giving of such notice, have filed in the office of the register of the city and county of New York a memorandum of such mortgage and of such real estate containing a brief abstract, designating the property, with the street number, if there be any, or such definite description or diagram as will enable the said clerk of arrears to designate the said premises upon the city maps, and the name and residence of such mortgagee, assignee, or personal representative, and such owner, lessee, or person represented.

1843, ch. 230,
art. 3, § 12,
Comp. 570.
1843, ch. 235,
§ 5, Comp. 583.
1841, ch. 170, § 1,
Comp. 602.
1863, ch. 589, § 3,
Comp. 580.
1841, ch. 230, § 1,
Comp. 608.
Street commis-
sioner to notify
mortgagees.

§ 937. Such notice shall be given by putting into the post-office in the city of New York, directed to such mortgagees, assignees, or personal representatives, at their places of residence, if known to the clerk of arrears, and such owners, lessees, or persons otherwise interested, a printed list describing all the property sold for taxes and remaining unredeemed. Such description shall name the street or avenue on which the property may be situate, the side of the street or avenue, and between what streets or avenues, with the map or street numbers of the property, and in whose name assessed, together with the term of years and amount for which the same shall have been sold, and the day or days on which the time limited for the redemption of the property will expire, with a notice that unless the property shall be redeemed on or by such days, by the payment of the sums for which the same were sold, with all interest and expenses allowed by law, that leases will be given to the purchasers, in accordance with the statute in such case made and provided.

1841, ch. 170, § 2,
Comp. 608.
1843, ch. 235, § 5,
Comp. 584.

Notice, how to
be sent to
mortgagees.

§ 938. An affidavit of the service of such notice as is required in the two preceding sections, before any officer authorized to take affidavits to be read in a court of record and filed in the office of the said register of deeds, or a certified copy thereof under the signature of such register, shall be evidence of the fact of such notice.

1843, ch. 230,
art. 3, § 14,
Comp. 571.
1841, ch. 230,
§ 8, Comp. 603.
Proof of such
service.

§ 939. It shall be the duty of the said register of deeds to keep in his office a book, alphabetically arranged, for the registering of all such memorandums as aforesaid, which book shall

Id. §§ 15, 16.
Id. § 14, 5.
Register to re-
cord memo-
randum.

- His fees. be open to the inspection of any person desiring to examine the same, without charge. The said register shall be entitled to receive twenty-five cents for registering the memorandum of each mortgage, as above provided.
- Id. §17. Id. §6. § 940. Such mortgagees or their assignees or personal representatives, and such owners, lessees, or persons otherwise interested, or their legal representatives, shall be entitled to redeem the property sold from the effect of such sale, at any time within two years from the date of such sale, and such mortgagees, assignees, or personal representatives shall have a lien on the property for the amount paid, with the interest which may thereafter accrue thereon, at the rate of seven per cent. per annum, in like manner as if the same had been included in such mortgage.
- Right to redeem lands within two years. 1871, ch.381, §4, Comp. 575. § 941. The clerk of arrears, under the direction of the comptroller of the city, shall cause an advertisement to be published at least twice in each week, for six weeks successively, in one of the daily newspapers printed and published in the city, in such form as he shall deem best calculated to give notice of such sale, that unless the lands and tenements sold be redeemed by a certain day, they will be conveyed to the purchaser. If the person or persons claiming title to the said lands and tenements, or some other persons, shall not, within two years from the date of the before-mentioned certificate, pay to the said clerk of arrears, for the use of the purchaser or purchasers, his, her, or their heirs, executors, administrators, or assigns, the sum mentioned in such certificate, together with the interest thereon, at the rate of fourteen per cent. per annum, from the date of such certificate, the said comptroller, in the name of the mayor, aldermen, and commonalty, at the expiration of the said two years, shall execute to the purchaser or purchasers, his, her, or their heirs, executors, administrators, or assigns, a lease, under the common seal of the city, of the lands and tenements so sold for such term of years as the same shall have been sold, and the execution thereof shall be witnessed by the clerk of arrears. At the time of receiving the lease the purchaser shall pay the sum of two dollars and fifty cents to the clerk of arrears for the expense of drawing said lease, and also the expense of advertising the notice to redeem; and all such leases executed by the said comptroller and witnessed by the clerk of arrears shall be presumptive evidence that the sale and all proceedings prior thereto, from and including the assessments on said lands and tenements, for taxes or assessments or Croton water rents, and all notices required by law to be given previous to the expiration of the two years allowed to redeem, were regular and according to the provisions of the statute in such cases made and provided; and
- Notice as to redemption of lands after sale 5 Daly, 347.
- Execution of lease to purchasers.

such purchaser or purchasers, his, her, or their heirs, executors, administrators, or assigns, shall, in virtue thereof and of this title, lawfully hold and enjoy the said lands and tenements in said lease mentioned for his, her, or their own proper use against the owner or owners thereof, and all claiming under him, her, or them, until such purchasers's term therein shall be fully complete and ended; and the said purchaser or purchasers, his, her, or their heirs, executors, administrators, or assigns, shall be at liberty to remove all the buildings or materials which he, she, or they shall erect or place thereon during the said term, within one month after the expiration of the said term, but leaving the lands and tenements, with the streets fronting the same, in the order required by the regulations of the common council; provided, that such lease shall not be executed and delivered until the expiration of six months after the publication of the notice last herein above mentioned.

Rights of purchasers holding leases.

Removal of buildings upon expiration of leases.

Leases, when to issue.

§ 942. In all cases where pieces or parcels of land shall have been sold for taxes, and any person shall claim to redeem any portion of the same within the time limited for redemption, he shall be permitted to do so on paying the apportionment of the tax for which the property was sold, together with the interest on the same, and an equitable proportion of the expense, the apportionment to be made by the comptroller.

1843, ch. 230, art. 3, §11, Comp. 570.

§ 943. Whenever any lands or tenements sold for taxes, assessments, or Croton water rents, and conveyed as in this title provided, shall at the time of conveyance be in the actual occupancy of any person, the grantee to whom the same shall have been conveyed or the person claiming under him, shall serve a written notice on the person occupying such lands or tenements, and in all cases on the person owning the property so conveyed, whether the property be in occupancy or not, provided such owner resides in the city of New York, or in any adjoining county; in case the owner does not reside in the city of New York, or in an adjoining county, said notice shall be sent to his or her post-office address by mail. All such notices shall state in substance the sale and conveyance, the person to whom made, and the amount of consideration money mentioned in the conveyance, with the addition of forty-two per cent. on such amount as the said lands or tenements were struck off for at the time of the sale, and the further addition of the sum paid for the lease and advertisement; and stating, also, that unless such consideration money, and the said forty-two per cent., together with the sum paid for the lease and advertisements, shall be paid to said clerk of arrears, for the benefit of the grantees, within six months after the service of such notice, the said conveyance will become absolute, and the owner, occupant, and all others inter-

1871, ch. 381, §13, Comp. 577.
Service of notice, in case of occupied lands.
See 1841, ch. 230, §§3, 4.

Notice to be mailed to non-resident owners.

Proof of service of notice to be recorded with conveyance.

ested in the lands or tenements be barred from all right and title thereto during the term of years for which such lands or tenements shall have been conveyed. And no conveyance made in pursuance of this title shall be recorded until the expiration of such notice, and the evidence of the service of such notice shall be recorded with such conveyance.

Id. §14.
Comp. 578.
Manner of serving notices.

§ 944. Such notice shall be served personally or by leaving the same at the dwelling house of the occupant and of the person owning the property conveyed, with any person of suitable age and discretion belonging to his or her family, and the name of the person on whom served, shall be stated in the affidavit of service hereinafter mentioned if the same can be ascertained, and if served by mail, shall state the time when the same was mailed.

Id. §15.
Affidavit of service of notice, how filed.

§ 945. In every such case the grantee, or the person claiming under him, in order to complete his title to the land conveyed, shall file with the said clerk of arrears an affidavit of some person residing in the city of New York, who shall be certified as credible by the officer before whom such affidavit shall be taken, that such notice was duly served, specifying the time of service, the mode and manner of service, and a copy of such notice shall be attached thereto.

Id. §16.
Certificate of comptroller and effect thereof.

§ 946. If the said comptroller shall be satisfied by such affidavit that the notice has been duly served, and if the moneys required to be paid for the redemption of such lands or tenements shall not have been paid as hereinbefore provided, he shall, under his hand and seal, certify to the fact, and the conveyance shall thereupon become absolute, and the owner and all others interested in the lands or tenements shall be barred of all right thereto during the term of years for which the same shall have been conveyed.

1871. ch. 381, §17,
Comp. 578.
Redemptions, when to be made.

§ 947. The owner, occupant, or any other person may, at any time within the six months named in such notice, redeem the said lands and tenements by paying such purchase money, with the addition of forty-two per cent. thereon, and the amount that shall have been paid for the lease, and every such redemption shall be as effectual as if made before the conveyance of the lands or tenements sold.

1848, ch. 230,
art 3, §10,
Comp. 570.
Rate of interest to be allowed.

§ 948. The rate of interest allowed by law to the purchaser at the time of redemption on the amount of the purchase money, shall be reduced to fourteen per cent. per annum; but no interest shall be calculated on a less portion of time than one quarter of a year; and in all cases where the property shall be redeemed during any fractional part of a year, the interest shall be calculated so as to include the quarter in which such redemption shall be made, the time to be computed from the day of sale.

§ 949. Upon such redemption, as provided for in the two preceding sections, the said clerk of arrears shall give to the person redeeming, a certificate under his hand and seal, stating the payment, the year in which the sale was made, and showing what land such payment is intended to redeem, and such certificate shall be evidence of such redemption.

Id. §18,
Comp. 579.
Certificate of
redemption.

§ 950. Whenever any certificate given by the clerk of arrears, as in this title provided, of lands sold shall be lost, the said comptroller may receive evidence of such loss, and on satisfactory proof of the fact may execute and deliver a lease to such person or persons who shall appear entitled thereto of the lands and tenements described in the certificate, and may also, in his discretion, require a bond of indemnity to the mayor, aldermen, and commonalty. All and each certificate shall be registered in the record of sales to be kept in the bureau of said clerk of arrears; and no transfer of such certificate shall be valid until registered in said book.

1871, ch. 381, §7.
Comp. 576.

Delivery of
lease in case of
loss of certifi-
cate.

Registry of
certificate.

§ 951. The clerk of arrears, upon the requisition of any person, shall furnish a bill of all arrears of taxes, and of taxes with the "regular rents" of Croton water added on any lot or lots, due prior to the first of June then last passed; and of assessments which shall have been due twelve months or over, including the amount necessary to redeem it or them, if it or they have been sold for any arrears of assessments, taxes, or regular rents for Croton water, and be yet redeemable; and upon the payment of the said bill (which shall be called a "bill of arrears, of assessments, taxes, and regular rents" for Croton water and for redemption"), his receipt thereon, which shall be conclusive evidence of such payment, countersigned by the comptroller, who shall cause to be kept a duplicate account of amounts so collected, or the certificate of the clerk of arrears, countersigned by the comptroller, that there are no such liens on said lot or lots, shall forever free the said lot or lots from all liens of taxes, or for taxes with the regular rents of Croton water added, or for regular rents for Croton water added to the taxes prior to the first of June then last passed, and for all assessments due thirteen months or over, prior to the date of the said receipt or certificate, and from all liens in consequence of sales for assessments, taxes, or regular rents for Croton water, or for all of them when the time allowed by law for redemption had not expired at the date or time of said payment or certificate.

1845, ch. 579, §16.
Comp. 582.
Clerk to furnish
bill of arrears
of taxes when
requested.

7 Daly, 544.

Lot to be free
from lien for
taxes on pay-
ment of bill.

§ 952. Fees for the searches to be paid into the city treasury, shall be included in the bills mentioned in the preceding section, and shall also be charged for certificates which shall be given by said clerk of arrears, respecting lots on which there may be no

Id. §17,
Comp. 583.
Fees to be
charged and
paid into the
city treasury.

arrears when searchers are required ; the said fees to be regulated by ordinance of the common council.

1871, ch. 381, § 21,
Comp. 579.
Record of sales
for taxes, as-
sessments, and
water rents, and
delivery of
leases.

§ 953. There shall be kept in the office of the clerk of arrears a record of all sales made for taxes, assessments, and Croton water rents, which record shall show the amount of the tax, the assessment, and the Croton water rents, a description of the premises sold, the date of the sale, the name of the person to whom sold, the term of years for which such property was sold, time of the delivery of the lease, to whom delivered, and when the same shall expire.

Id. § 22.
Affidavits of
publication,
how registered.

§ 954. It shall be the duty of the clerk of arrears to procure, preserve, and register in his office, affidavits of the publication of all the notices by this title required to be published, and such affidavits shall be presumptive proof of such publication in all the courts of this State.

Title 5.—Opening Streets, Avenues, and Public Places.

1873, ch. 323, § 103,
Comp. 612.
Board of street
opening,
powers of.

§ 955. The mayor, comptroller, commissioner of public works, the president of the department of public parks, and the president of the board of aldermen, shall hereafter together form a board to be known as " the board of street opening and improvement ;" they shall keep full records of its proceedings, and shall have all the powers and authority as to laying out, opening, widening, straightening, extending, altering, and closing streets or avenues, or parts of streets or avenues, in that part of the city of New York south of Fifty-ninth street, which, on April thirtieth, eighteen hundred and seventy-three, were in any manner otherwise conferred and vested, or which relate to altering the map or plan of said city. The said board are authorized and empowered, whenever they may deem it for public interest so to do, after laying its proposed action before the board of aldermen, and publishing full notice of the same for ten days in the City Record, to alter the map or plan of New York city so as to lay out new streets in said part of said city, and from time to time to cause maps, showing the several streets or avenues so laid out, opened, widened, straightened, extended, altered, or closed by them, to be certified by them and filed, one in the office of the department of public works of said city, and one in the office of the counsel to the corporation of said city, and it shall be the duty of the said counsel to the corporation, on the filing of said maps in his office, together with a requisition in writing of said board, immediately to take proceedings, in the name of the mayor, aldermen, and commonalty of said city, to acquire title for the use of the public to the land required for the streets or avenues so laid out, opened,

Notices to lay
out new streets
to be published.

widened, straightened, extended, or altered, and for that purpose to make application to the supreme court in the first judicial district, and in such manner as the said board shall direct, for the appointment of commissioners of estimate and assessment, indicating in such application the land required for that purpose by reference to said maps on file as aforesaid; and the proceedings to acquire title to such lands shall be had pursuant to such acts as shall be then in force relative to the opening, straightening, extending, widening, or altering streets, roads, avenues, and public squares and places in the city of New York, which said acts are hereby made applicable to the streets and avenues, or parts of streets and avenues, so laid out, opened, widened, straightened, extended, and altered, and to the proceedings authorized hereby. A majority of said board shall constitute a quorum, but the vote of a majority of all the members thereof shall be necessary to any act of said board.

Proceedings to
acquire title.

Quorum of
board.

§ 956. The department of public works shall have and possess all the powers and functions conferred upon the mayor, aldermen, and commonalty, or any officer or department of said city in relation to the opening of streets, avenues, and roads, and public places above Fifty-ninth street, except in the Twenty-third and Twenty-fourth wards, and not embraced within the limits of or immediately adjacent to any park or public place, except as in this act otherwise provided.

1873, ch. 335, § 73,
as amended
1873, ch. 757, § 9,
Comp. 283.
Department of
public works to
possess certain
powers.

§ 957. The department of public parks shall have the exclusive power to locate and lay out all public parks, streets, roads, and avenues, and to devise plans for and locate all bridges and tunnels within the Twenty-third and Twenty-fourth wards, and the said department of public parks shall have exclusive power to establish the widths and grades of all such streets, roads, and avenues, so located and laid out, except as to such streets, roads, and avenues within said territory as are laid down and established by the commissioners appointed under chapter eight hundred and forty-one of the laws of eighteen hundred and sixty-eight, on a map of the same, filed in the office of the register of the county of Westchester, on the twenty-third day of February, eighteen hundred and seventy-one, which streets and avenues, with the grades and lines thereof as laid down on said map, are hereby confirmed and established, except so far as the same have been changed or modified by law, subject, however, to be altered by said department of public parks whenever it may deem such change required, and also except that the several surveys, maps, plans, and profiles of streets, roads and avenues that shall have been made, laid out, filed, or adopted by the department of public parks within the said wards, under any law of this State authorizing the same, are hereby con-

1873, ch. 613,
§ 14, as amended
1874, ch. 329,
§ 14, Comp. 615.
Commissioners
of public parks,
their powers as
to public parks,
streets, etc.,
within annexed
territory.

No street to be constructed upon depot or station ground of railroad.

firmed and established, subject to be altered, however, in the same manner as is provided, as to the survey and map of the town of Morrisania. No street or avenue not laid out before May twenty-third, eighteen hundred and seventy-three, shall be constructed through or upon the depot or station grounds of any railroad or branch of the same, then operated by steam within the said wards, unless with the consent of the said railroad company. In all cases where proceedings had, prior to said date, been commenced for the opening of any streets, roads, or avenues within either of the said wards, the same shall be continued and completed under the direction of the department of public parks under the laws then in force in said wards for opening or constructing the same. All proceedings hereafter to be taken by the department of public parks to lay out any public parks, to devise plans for and locate any bridges or tunnels, or to locate or lay out any streets, sewers, roads, or avenues within either of said wards, shall be taken and prosecuted by the department of public parks. The said department shall also possess the special powers provided in section three hundred and thirty-nine.

1874, ch. 604, §4.
Comp. 1029.
Department of parks may acquire title.

§ 958. The department of public parks, for and in behalf of the mayor, aldermen, and commonalty of the city of New York, are authorized to acquire title for the use of the public, to all or any of the lands required for the streets, avenues, and roads, public squares and places laid out by them, in the Twenty-third and Twenty-fourth wards of the said city of New York or any portion of said streets, avenues, roads, public squares and places in the said Twenty-third and Twenty-fourth wards of said city, whenever it shall deem it for the public interests so to do; and such department may, for that purpose, make application to the supreme court in the first judicial district for the appointment of commissioners of estimate and assessment, specifying in such application the lands required for that purpose, and the proceedings to acquire title to such lands shall be had pursuant to such acts as shall then be in force relative to the opening of streets, avenues, roads, and public squares and places in the city of New York, which said acts, so far as the same are not inconsistent with the provisions of this chapter, are hereby made applicable to the streets, avenues, roads, public squares and places so laid out or to be laid out by said department of public parks, in the same manner and to the same extent as if the said streets, avenues, roads, public squares and places had been originally laid down as and for public streets, roads, avenues, squares and places by the commissioners appointed in and by the act entitled "an act relative to improvements touching the laying out of streets and roads in

Assessment for benefits.

the city of New York, and for other purposes," passed April third, one thousand eight hundred and seven, except that the said commissioners of estimate and assessment who may be appointed as herein provided, may assess for such opening all such parties and persons, lands and tenements, as they may deem to be benefited by such improvement, to the extent which said commissioners of estimate and assessment deem such parties, persons, lands and tenements benefited thereby, provided that as to streets, avenues, or roads which shall be, in the opinion of the said commissioners of estimate and assessment, or a majority of them, more than one mile in length, not more than one-half of the amount awarded for damages, and of the expenses attending such opening, shall be so assessed; the amount of such damages and expenses not so assessed being hereby made a charge upon the city of New York, to be paid as hereinafter provided. The moneys collected upon the assessment of the commissioners of estimate and assessment shall be paid into the city treasury. No compensation shall be allowed for any buildings, erection, or construction which at any time subsequent to the filing of the maps, plans, or profiles mentioned in section six hundred and seventy-two, may be built, erected, or placed, in part or in whole, upon or through any street, avenues, road, public square or place exhibited upon such maps, plans, or profiles. The damages awarded by commissioners of estimate and assessment, shall become due and payable immediately upon the confirmation of the report of said commissioners of estimate and assessment.

Proceedings
therefor.

1874, ch. 604, §5.
Comp. 1030.
Compensation
for buildings,
etc.

Id. §6.
Damages, when
payable.

§ 959. The department of public parks for and in behalf of the mayor, aldermen and commonalty of the city of New York are authorized to acquire title for the use of the public to approaches to bridges and tunnels, sites or lands above or under water for bridges and tunnels, and sites or lands above or under water for all improvements of the navigation of Harlem river and Spuyten Duyvill creek that may be laid out or retained by them under section six hundred and seventy-five, whenever it shall deem it to the public interest so to do, and such department shall for that purpose make application to the supreme court in the first judicial district for the appointment of commissioners of estimate and assessment, specifying in such application lands required for that purpose; and such proceedings to acquire titles to such lands shall be had pursuant to such acts as shall then be in force relative to the opening of public squares and places, streets, avenues and roads in the city of New York, except that in such proceedings the department of public parks shall act in lieu and in place of the mayor, aldermen and commonalty of the city of New York, except also that the commis-

1871, ch. 384, §10.
Comp. 1023.
Title to lands in
New York city,
how acquired.

Streets and
avenues, lands
for bridges,
etc., to remain
in control of
park depart-
ment.

1881, ch. 103.
Proper authori-
ties to open and
grade certain
streets.

Motions.

1881, ch. 469,
§§ 2, 4, 5.
Lexington av.
to be opened,
graded, etc.

Motions, where
to be made.

sioners of estimate and assessment who may be appointed as herein provided, may assess for such openings and land laid out and retained all such parties and persons, lands and tenements as they may deem to be benefited by such improvements to the extent which such commissioners deem such persons, parties, lands, and tenements benefited thereby; and it shall be the duty of the counsel to the corporation to perform all the legal services required of him in the proceedings authorized by this section without any additional compensation beyond the salary and allowances provided by law; and the said streets, avenues or roads, approaches to bridges and tunnels, sites or lands above or under water for bridges and tunnels, and sites or lands above or under water for all improvements of navigation of Harlem river and Spuyten Duyvil creek, as shall be laid out or retained by the department of public parks, as aforesaid, shall immediately after the same are laid out and opened be and remain under the control and management of the department of public parks, as to the regulating, grading and proper constructing and maintaining the same and all the works pertaining thereto.

§ 960. It shall be the duty of the counsel to the corporation and the proper authorities of the city, to take all necessary legal measures to open, regulate and grade such parts of One Hundred and Twenty-sixth street and One Hundred and Twenty-seventh street, east of Second avenue, as have not heretofore been opened. That portion of section nine hundred and ninety which allows a discontinuance of the proceedings on the objection of persons representing a majority in amount of the assessments and awards, shall not apply to such proceedings. All motions, and applications for the appointment of commissioners in said proceedings, may be made at any special term of the supreme court appointed to be held in and for the city and county of New York. Upon the coming in and confirmation by the said court of the report of the commissioners appointed in said proceedings the commissioner of public works shall forthwith proceed and actually open, regulate and grade said streets.

§ 961. The corporation counsel and the department or board having the direction or charge of opening streets, avenues, public parks or places in the city, are authorized and directed to take all necessary legal measures for the purpose of opening, extending, regulating and grading, and for taking and acquiring lands necessary for opening and extending Lexington avenue from Ninety-seventh to Ninety-eighth street, and from Ninety-ninth to One Hundred and Second street. All motions and applications for the appointment of commissioners in said proceedings may be made at any special term of the supreme court appointed to be held in and for the city and county of New York. Upon the

coming in and confirmation by the court of the report of the commissioners appointed in said proceedings the commissioner of public works shall proceed and actually open, extend, regulate and grade said avenue between said streets.

When commissioners to open street.

§ 962. It shall be the duty of the counsel to the corporation to take the necessary legal means and proceedings to open as a street the extension of Manhattan street, from Twelfth avenue westerly to the established bulkhead line in the Hudson river, and all the laws now in force in the city in relation to the opening and improvement of streets and avenues, and the payment and the assessment of the expenses thereof shall apply to said street; provided, however, that the commissioners of estimate and assessment who may be appointed in pursuance of this section, may assess for such opening and widening, all such parties and persons, lands and tenements which they may deem to be benefited by such improvement, to the extent which said commissioners deem such parties, persons, lands and tenements benefited thereby.

1881, ch. 523, §2.
Counsel of corporation to take proceedings to open Manhattan street.

§ 963. Whenever and as often as the mayor, aldermen, and commonalty shall be desirous to open any street, avenue, square, or public place, or any particular part or section of any street or avenue laid out by the commissioners of streets and roads in the city of New York, under and by virtue of the act entitled "an act relative to improvements touching the laying out of streets and roads in the city of New York, and for other purposes," passed April third, eighteen hundred and seven, and also whenever and as often as so many proprietors of lands fronting on any such street, avenue, square, or public place, or any particular part or section of any such street, avenue, square, or public place as shall together own three-fourth parts of all the lands fronting on such street, avenue, square, or public place, or on such part or section of any such street, avenue, square, or public place, shall by petition desire the said mayor, aldermen, and commonalty to open any such street, avenue, square, or public place, or any such particular part or section of any such street, avenue, square, or public place, and the said mayor, aldermen, and commonalty shall deem the opening thereof to be necessary or useful, it shall be lawful for the said mayor, aldermen, and commonalty to cause the same to be opened, and the lands, tenements, and hereditaments that may be required for the purpose of opening the same may be taken for that purpose, and compensation and recompense made to the parties and persons, if any such there shall be, to whom the loss and damage thereby shall be deemed to exceed the benefit and advantage thereof, for the excess of the damage over and above the value of the said benefit, in the manner hereinafter for that purpose directed and

1813, ch. 86,
§177, Comp. 616.
Streets, avenues and squares, how to be opened.
9 Paige, 16; 19 Wend. 678.

prescribed; and whenever and as often also as it shall, in the opinion of the said mayor, aldermen, and commonalty, be necessary or desirable for the public convenience of health to lay out, form, and open any street or streets, or public square, or place or places, in any part of the said city, not laid out into streets, avenues, squares, and public places by the commissioners of streets and roads in the city of New York, under and by virtue of the act aforesaid, or to extend, enlarge, straighten, alter, or otherwise improve any street or streets, or part of a street, or public place or places, already laid out or hereafter to be laid out, and formed or opened in any part of the said city not laid out into streets, avenues, squares, and public places by the commissioners aforesaid, it shall be lawful for the said mayor, aldermen, and commonalty of the city of New York to order and direct the same to be done, and to cause the same to be done accordingly in such manner as they shall think most advisable, subject to the provisions of this title, notwithstanding it may become necessary for that purpose to remove any building or buildings, or to take any lands, tenements, hereditaments, or premises whatsoever. And if the said mayor, aldermen, and commonalty shall require any lands, tenements, hereditaments, or premises of any person or persons, or body politic or corporate, for any such purpose, the same may be taken and appropriated to such use, and compensation and recompense made to the parties and persons respectively, if any such there shall be, to whom the loss and damage thereby shall be deemed to exceed the benefit and advantage thereof, for the excess of the said damage above the said benefit, in the manner for that purpose hereinafter mentioned and provided.

1815, ch. 152,
Comp. 632.

1818, ch. 86, §178,
Comp. 617.
On application
of corporation,
supreme court
to appoint three
commissioners
to ascertain
damages, etc.
12 Wend. 203; 7
Hill, 175; 6 Abb.
273; 60 N. Y. 20;
12 N. Y. 406;
53 N. Y. 202;
19 Wend. 678;
11 Wend. 154;
12 Abb. 107.

§ 964. Whenever and as often as any lands, tenements, hereditaments, or premises whatsoever shall be required for the said purpose of opening any such public square, place, street, or avenue, or part or section of a street or avenue, in the said city of New York, laid out by the commissioners aforesaid, under and by virtue of the act in the last section mentioned, so to be opened, or for the said purposes of laying out and forming or extending, enlarging, straightening, altering, or otherwise improving any street or public place, so to be laid out and formed or opened, or so to be extended, enlarged, straightened, altered, or otherwise improved, in any part of the said city not laid out into streets, avenues, squares, and public places, by the commissioners aforesaid, under the act aforesaid, or for any or either of the said purposes, it shall be lawful for the said mayor, aldermen, and commonalty to make application or to cause application to be made to the supreme court of this State for the appointment of commis-

sioners; and it shall be lawful for the said court to whom such application shall be made on any such application to nominate and appoint three discreet and disinterested persons, being citizens of the United States, commissioners of estimate and assessment, for the purpose of performing the duties hereinafter in that behalf prescribed. Streets or avenues, or portions thereof, which are continuations of each other in the same general direction, and no others, may be embraced in the same proceeding for the opening thereof, but the provisions of section three hundred and forty-one of this act shall apply to all proceedings to open any street, avenue or road therein referred to.

1880, ch. 579, §2.

1879, ch. 518, §2.
Comp. 1034.

§ 965. The commissioners of estimate and assessment shall be appointed as follows: The mayor, aldermen, and commonalty of the said city shall give notice, by advertisement to be published in the City Record or, when authorized pursuant to section sixty-six of this act, in at least four of the public newspapers printed in the said city, of their intention to make application to the said court for the appointment of such commissioners, which notice shall specify the time and place of such application, and the nature and extent of the intended improvement, and shall be so published for and during the space of twenty days previous to the said appointment; and they shall, in addition to the said advertisement, cause copies of the same in handbills to be posted up for the same space of time, in three conspicuous places adjacent to the property to be affected by the intended improvement. At the time thus specified the mayor, aldermen, and commonalty shall nominate three discreet and disinterested persons to said court, of whom they shall designate one, who shall be appointed. Any person who may be interested in the property which will be affected by the intended improvement (which interest for this purpose shall be decided by his own affidavit, stating the nature and extent of such interest), may present to the court the name of one or more persons, which names shall form a list, out of which, if a majority in interest of the persons so interested shall agree upon the name of one person, that person shall be appointed; but if a majority shall not agree upon one person, then the court shall appoint one person out of the names in such list; after which, the said court shall appoint a third person, out of the names so presented by the mayor, aldermen, and commonalty and by the parties interested; all of which persons so nominated shall be subject to the right of challenge on the ground of interest, incapacity, or disqualification, to be exercised by the said mayor, aldermen, and commonalty, or by any person having an interest in the said matter; and if any of them be rejected

1839, ch. 209, §2.
Comp. 639.
Commissioners,
how appointed.
6 Abb. 273.

for good cause, or refuse to serve, then another shall be nominated in his stead by the same party.

1813, ch. 86, §187,
Comp. 630.
Vacancy in
office of com-
missioner, how
to be filled.

§ 966. In case of the death, resignation, or refusal to act of any such commissioner of estimate and assessment, to be appointed under and by virtue of this title for any such aforesaid purpose, it shall and may be lawful for the court aforesaid, or any one of the justices thereof, on the application of the mayor, aldermen, and commonalty, as often as such event shall happen, to appoint a discreet and disinterested person, being a citizen of the United States, in the place and stead of such commissioner so dying, resigning, or refusing to act, and the surviving or acting commissioners, as the case may be, shall have full power to proceed in the execution of the duties of their appointment, until a successor of the commissioner so dying, resigning, or refusing to act shall be appointed.

1813, ch. 86, §188,
Comp. 630.
Any two
commissioners
may act.

§ 967. In all and every case of the appointment of commissioners by the court aforesaid, for any of the purposes aforesaid, it shall be competent and lawful for any two of such said commissioners so to be appointed, to proceed to and execute and perform the trusts and duties of their said appointment, and their acts shall be as valid and effectual as the acts of all the commissioners so to be appointed for such said purpose if they had acted therein would have been. In all cases the acts, decisions, and proceedings of the major part of such of the commissioners to be appointed for any of the purposes aforesaid as shall be acting in the premises, shall always be as binding, valid, and effectual as if the said commissioners named and appointed for such purpose had all concurred and joined therein.

1813, ch. 86, §178,
Comp. 618.

§ 968. The said commissioners, before they enter upon the performance of the duties of their appointment, shall severally take and subscribe an oath or affirmation, before some person authorized by law to administer oaths, "faithfully to perform the trust and duties required of them by this title," which oath or affirmation shall be filed in the clerk's office of the city of New York.

1813, ch. 86, §178,
Comp. 618.
Duty of com-
missioners.
19 Wend. 178.

§ 969. It shall be the duty of the said commissioners to view the lands, tenements, hereditaments, and premises so required for the purpose of opening the said public square or place, street, avenue, or part or section of a street or avenue so to be opened, or for the purpose of laying out and forming the street or streets, or public place so to be laid out or formed, or for the purpose of extending, enlarging, straightening, altering, or otherwise improving the street or public place so to be extended, enlarged straightened, altered, or otherwise improved as the case may be, and the lands, tenements, hereditaments and premises, on each

side of the same, half way to the next street or avenue thereto, if they shall deem such view to be necessary or useful.

§ 970. They shall then proceed to and make a just and equitable estimate and assessment of the loss and damage, if any, over and above the benefit and advantage, or of the benefit and advantage, if any, over and above the loss and damage, as the case may be, to the respective owners, lessees, parties, and persons respectively, entitled unto or interested in the lands, tenements, hereditaments, and premises so required for the purpose, by and in consequence of opening such public square or place, street, avenue, or part or section of a street or avenue so to be opened, or by and in consequence of laying out and forming such public street or place, so to be laid out and formed or by and in consequence of extending, enlarging, or otherwise improving the street or public place so to be extended, enlarged, or otherwise improved, as the case may be, and a just and equitable estimate and assessment also of the value of the benefit and advantage of such said public square or place, street, avenue, or part or section of a street or avenue so to be opened, or such street or public place so to be laid out and formed, or of such extension, enlargement, or other improvement of the street or public place so to be extended, enlarged, or otherwise improved, as the case may be, to the respective owners, lessees, parties, and persons respectively, entitled unto or interested in, the said respective lands, tenements, hereditaments, and premises not required for the purpose of opening, laying out, and forming or extending, enlarging, or otherwise improving the same. Whenever the commissioners are appointed for the purpose of opening any street or avenue, or any part or section of any street or avenue, laid out by the commissioners of streets and roads in the city of New York, under and by virtue of the act entitled "an act relative to improvements touching the laying out of streets and roads in the city of New York, and for other purposes," passed April third, eighteen hundred and seven, or for the purpose of opening, extending, enlarging, straightening, altering, or otherwise improving any street, or part of a street, or public place, in that part of the said city not laid out into streets, avenues, squares, and public places by the commissioners aforesaid, the said commissioners of estimate and assessment shall not, in making their estimate and assessment of the value of the benefit and advantage of the said operation, be confined to any definite limits, but shall be and hereby are authorized to extend such estimate and assessment to any and all such lands, tenements, hereditaments, and premises as they may deem to be benefited by the said operation, and which they may judge expedient to include in their report in the premises; provided, that in all and

1813, ch. 86, § 178.
Comp. 618.
Estimate of
damage and
benefit.
12 Wend. 208;
49 Barb. 455;
60 N. Y. 26;
19 Wend. 678,
681.

1816, ch. 81, § 1.
Comp. 634.
49 Barb. 455.

Estimate and
assessment to
cover all lands
benefited.

Provided.

1873, ch. 335, § 105,
Comp. 613.

1880, ch. 579, § 2.

1880, ch. 579, § 3.
Owners may
convey at their
own expense
lands free from
incumbrance,
etc.

Duty of counsel
to the
corporation.

every case of opening any street or avenue, or part or section of any street or avenue, laid out by the aforesaid commissioners of streets and roads north of Fifty-ninth street, the said commissioners of estimate and assessment shall not be at liberty to extend such estimate and assessment of the value of the benefit and advantage thereof to any lands, tenements, hereditaments, or premises lying on either side of such street or avenue, and beyond half the distance of the next street or avenue thereto. But the commissioners who may be appointed for acquiring title to any land south of Fifty-ninth street, for the purposes of this section, may assess therefor all such lands and tenements as they may deem to be benefited by such improvement, and to the extent and amount which they may deem such lands and tenements benefited thereby; and provided further that, in case of the opening of any street or avenue, or portions of any street or avenue in said city, where the street or avenue, or portions thereof, sought to be opened shall have been laid down and shown upon any general map or plan made and filed in pursuance with any law of the State of New York, relative to the mapping and planning of streets and avenues in said city, where no buildings for which compensation can lawfully be made shall be taken, the assessment district shall not extend beyond the centre line of the blocks adjacent thereto, nor beyond the ends of the street or avenue, or portions thereof, sought to be opened.

§ 971. The owners of land and of all the estate therein embraced within the lines of any street or avenue laid down and shown on any such general map or plan, and comprising all the land within said lines in an entire block in extent, may, without compensation, and at their own expense, convey all their right, title, and interest therein, providing the same shall be free from incumbrance, to the mayor, aldermen, and commonalty of the city of New York, and upon the delivery of such conveyances to the counsel to the corporation of said city, with the money necessary to record such conveyances, and affidavits made by all such owners to the effect that the persons making them are the owners of the estates in such lands so conveyed by them respectively, and stating their interests, and that such estates in such lands are free of all incumbrances, together with abstracts of title, if desired by such counsel to the corporation, it shall be the duty of such counsel to the corporation to examine such conveyances and papers, and if such titles shall not be rejected for good cause, by such counsel, he shall cause the said conveyances to be recorded in the office of the register of the city and county of New York, within sixty days after their delivery to him, and file them with the comptroller of such city, and thereupon the said the mayor, aldermen and commonalty of the

city of New York shall become vested with the title to said lands to the same effect and extent as if they had been acquired by a proceeding taken for the opening of that portion of said street or avenue; after the making and acceptance of such conveyances, no proceedings to open the lands so conveyed shall be taken or maintained, nor shall the lands fronting on that portion of the street or avenue so conveyed, and extending to the centre of the block on either side of such portion of said street or avenue so conveyed, be chargeable with any portion of the expenses of opening the residue or any portion of the residue of such street or avenue, except the due and fair proportion of the awards that may be made for buildings as aforesaid.

After conveyance no proceedings to acquire title to be taken.

§ 972. If, at any time after the filing of the maps showing the laying out of streets, avenues, roads and public squares and places, by the department of public parks, the owner or owners of any plot of land bounded on all sides by streets, avenues, or roads, and not laid out as and for a public square or place shall desire to subdivide such plot and give public right of way into or through such plot, he, she or they may do so, by submitting two maps, plans or surveys of such plot and of such proposed right of way, showing the width which shall not be less than thirty feet, and the location, extent and direction of the same, and the proposed grade therefor, to the department of public parks for approval; and if the same shall be approved by said department, and the owner or owners aforesaid shall immediately thereafter convey, in such form as shall be approved by said department, the title to the land required for such right of way, free and clear from all incumbrances, unto the mayor, aldermen and commonalty of the city of New York, in trust, as and for a public street, road or avenue, the same shall from that time be and become an opened public street, road, or avenue, the same as if it had been laid out and opened as other streets, roads, or avenues are or ought to be; and the maps, plans or surveys thereof and of the grades therefor, shall immediately thereafter be certified by one of the officers of the department of public parks to be designated for such purpose, and one of such maps showing the width, extent and location of the streets, avenues, roads, public squares and places so laid out and established, and one of said maps showing the grades so amended or established, shall be filed in and remain of record, in the office of the department of public works, and the others shall remain of record in the office of the department of public parks.

1867, ch. 697, §7.
Comp. 663.
Subdivision of plots, etc., by owners.

§ 973. Whenever and as often as commissioners may be appointed for the purpose of opening any or either of the public squares or places (other than and except the streets and avenues) laid out by the commissioners of streets and roads in the city of New York, under and by virtue of the act entitled "an act relative

1815, ch. 152, §1.
Comp. 681.
Powers of the commissioners of estimate and assessment extended.

to improvements touching the laying out of streets and roads in the city of New York, and for other purposes," passed April third, eighteen hundred and seven, or any or either of the said public squares or places, as altered by the legislature, the said commissioners of estimate and assessment shall not, in making their estimate and assessment of the value of the benefit and advantage of such public square or place, be confined to the lands, tenements, hereditaments, and premises fronting thereon and lying within half the distance of the next street or avenue thereto from the same on each side thereof, but on the contrary thereof, after having made their estimate and assessment of the loss and damage over and above the benefit and advantage, and of the benefit and advantage over and above the loss and damage, and of the equality of the benefit and advantage to the loss and damage as the case may be, to the respective owners, lessees, parties, and persons respectively entitled unto or interested in the lands, tenements, hereditaments, and premises so required for the purpose by and in consequence of opening such public square or place, the said commissioners shall proceed to make a just and equitable estimate and assessment of the value of the benefit and advantage of such public square or place so to be opened by the respective owners, lessees, parties, and persons respectively entitled unto or interested in the lands, tenements, hereditaments, and premises lying out of the limits of such public square or place, and which the said commissioners may deem to be benefited by such public square or place in respect to the respective estates and interest of such owners, lessees, parties and persons respectively so entitled to or interested in such said lands, tenements, hereditaments, and premises so deemed benefited thereby, and the said commissioners shall and may extend their said assessments to any such lands, tenements, hereditaments, and premises as they may deem to be benefited by the opening of the said public square or place, notwithstanding such said lands, tenements, hereditaments, and premises may be situated without and beyond half the distance of the next street or avenue thereto from such said public square or place on any side thereof.

1802, ch. 483, §1.
Comp. 655.
Limit of
appointment.

§ 974. The commissioners appointed in pursuance of this title shall complete said proceeding on their part within four months from the time of their appointment, unless further time shall be allowed by the supreme court.

1839, ch. 200, §3.
Comp. 640.
Report of com-
missioners.

§ 975. It shall be the duty of the said commissioners in all cases to report fully and separately to the said court the amount of loss and damage, and of benefit and advantage to each and every owner, lessee, party, and person entitled unto or interested

in any lands, tenements, hereditaments, or premises, so required for the purpose of any such operation or improvement.

§ 976. In all cases, where any owner or owners, lessee or lessees, party or person or persons who may be interested in or entitled unto any lands, tenements, hereditaments, or premises, not included within the limits of such public square or place, street, avenue, or part or section of a street or avenue so to be opened, or such street or public place so to be laid out and formed or extended, enlarged, or otherwise improved, or being within the limits or district to which the said commissioners are, by the preceding sections, allowed to extend their assessment, will, in the opinion of the said commissioners, be benefitted by opening, laying out, and forming or extending, enlarging or otherwise improving the same, as the case may be, it shall be the duty of the said commissioners to estimate, assess and report the value of such benefit to such owner or owners, lessee or lessees, parties, and persons respectively, in respect to the said lands, tenements, hereditaments, and premises wherein he, she or they may respectively be so interested.

1813, ch. 86, § 178,
Comp. 619.
Report to in-
clude all lands
benefitted.

§ 977. It shall not be lawful for the said commissioners of estimate and assessment, to be appointed under and by virtue of this title, to allow any sum or compensation whatsoever for any building or buildings which at any time subsequently to the filing of the maps mentioned in the fifth section of chapter one hundred and fifteen of the laws of eighteen hundred and seven, may have been built, placed, or erected, or which at any time hereafter may be built, placed, or erected in part or in whole, on any such street, avenue, public square, or place laid out by the said commissioners of streets and roads, under and by virtue of the said last-mentioned act; but compensation and recompense shall be made to the owners thereof, and parties interested therein, for all buildings and improvements erected, placed, or made, wholly or in part, upon any part of any such street, avenue, square, or public place, so to be opened, at any time before the time of the filing of the maps aforesaid. It shall be lawful for the said commissioners of estimate and assessment, if they shall deem it just and equitable under the circumstances to do so, but not otherwise, to assess any part not exceeding one-third part of the estimated value of any such building or buildings, but not of any other improvement, upon the said mayor, aldermen, and commonalty of the city of New York. If it should become necessary for the purpose of laying out and forming or extending, enlarging, or otherwise improving any street or public place in any part of the said city, not laid out into streets, avenues, squares, and public places by the said commissioners of streets and roads in the city of New York, under and by

1813, ch. 86, § 178,
Comp. 622.
53 N. Y. 202.
56 How. 60.

Commissioners
to assess a part
of the value of
buildings on
corporation.

virtue of the said last-mentioned act, to remove any building or buildings, it shall and may be lawful to and for the said commissioners of estimate and assessment at their discretion, if they shall deem it equitable and just to do so, but not otherwise, to assess any part not exceeding one-third part of the estimated value of such building or buildings upon the said mayor, aldermen, and commonalty of the city of New York.

1816, ch. 180, §1,
Comp. 635.

§ 978. It shall be the duty of the commissioners in each case appointed, to perform the duties relative to the opening, extending, enlarging, straightening, altering, or otherwise improving any street or streets, or part of a street, or public place or places, in any part of the said city, not laid out into streets, avenues, squares, and public places, by the commissioners of streets and roads in the said city, under and by virtue of the act entitled "an act relative to improvements touching the laying out of streets and roads in the city of New York, and for other purposes," passed April third, eighteen hundred and seven, before the completion of their estimate and assessments in the premises, to obtain from the corporation of the city of New York a profile or plan, showing the intended regulation of such street, or part of a street, or public place, as to the elevation or depression thereof after the same shall be opened, extended, enlarged, straightened, altered, or otherwise improved as the case may be; and also profiles or plans, if they shall deem the same useful, showing the intended regulation of the adjacent street or streets, as to the elevation or depression thereof, after such improvement. If the said commissioners of estimate and assessment shall judge that such intended regulation will injure any building or buildings not required to be taken for the purpose of opening, extending, enlarging, straightening, altering, or improving such street, or part of a street, or public place, they shall proceed to make (together with the other estimates and assessments required by the first above-mentioned act to be made by them), a just and equitable estimate and assessment of the loss and damage which will accrue, by and in consequence of such intended regulation, to the respective owners, lessees, parties, and persons respectively entitled unto or interested in the said building or buildings so to be injured by the said intended regulation; and the sums or estimates of compensation and recompense for such loss and damage, shall be included by the said commissioners in their general report of estimate and assessment, which they shall make in relation to the intended improvement of the street or public place so to be opened, extended, enlarged, straightened, altered, or improved; and the report of the said commissioners, as to such damage and loss, and as to the persons or parties who are to receive the com-

Equitable
estimate and
assessment to
be made.

pensation or recompense reported, shall be made in the manner directed by the first above-mentioned act as to other damages reported by the said commissioners.

§ 979. It shall be lawful for the said mayor, aldermen, and commonalty, at any time or times, either before or after the appointment of commissioners in the premises, for any of the purposes aforesaid, to agree with the owners, lessees, parties, and persons entitled unto or interested in the lands, tenements, hereditaments, and premises, that either will be benefited by or may be required, for the purpose of making the operation and improvement intended to be made, or with any or with either of such owners or other parties interested therein, for and about the cession of the lands, tenements, hereditaments, and premises required of him, her, or them respectively, for the purpose of making such said intended operation and improvement, and for and about the compensation and recompense to be made to him, her, or them for the same, or for and about the allowance or sum or sums to be allowed and paid by such owners and parties respectively, or by any or either of them, for the benefit and advantage of the public square, place, street, avenue, or part or section of a street or avenue so to be opened, or the street or public place so to be laid out and formed, or the extension, enlargement, or other improvement of the street or public place so to be extended, enlarged, or otherwise improved, to him, her, or them, over and above the value of the lands, tenements, hereditaments, and premises, that may be required, if any lands, tenements, hereditaments, or premises shall be required of him, her, or them, for the purpose of opening, laying out, and forming or extending, enlarging, or otherwise improving the same, and in case of any such agreement or agreements, with part only of the said owners and parties entitled unto and interested in the said lands, tenements, hereditaments, and premises so required for the purpose of making any such operation and improvement as aforesaid, or to be benefited thereby, the same shall be valid and binding upon the parties thereto, and the said commissioners shall, nevertheless, enter upon and make or proceed with their said estimate and assessment, and make report to the said court, as to the residue of the said lands, tenements, hereditaments, and premises required for the said purpose of making such said operation and improvement, or to be benefited thereby, concerning which the owners thereof and parties interested therein shall not agree; and the said report, when confirmed, shall be of like force and effect in regard to the matters comprised therein as if no such agreement as to the part of the premises had been made.

1813, ch. 86, §178, Comp. 624.
Corporation may agree with parties interested for cession of the lands required for streets, etc.

1813, ch. 86, §178, Comp. 623.

When lands belonging to corporation are required for aforesaid purposes, commissioners are to assess damages or benefit in the usual manner.

§ 980. If any lands, tenements, hereditaments, or premises belonging to the said mayor, aldermen, and commonalty of the city of New York, or wherein they may be interested, shall be required for any of the purposes aforesaid, or shall be benefited by any such operation and improvement as hereinbefore mentioned, the said mayor, aldermen; and commonalty shall be entitled to compensation and recompense for the loss and damage they may sustain, and shall be bound to allow and pay for the benefit and advantage they may be deemed to acquire thereby, in like manner as other owners and proprietors of lands and premises required for the purpose of making the said operation and improvement, or deemed to be benefited thereby; and it shall be lawful for the said commissioners of estimate and assessment, and they are hereby directed in such each and every case, to estimate and assess upon the principles and in the manner herein aforesaid; and to report the sum or sums which in their opinion ought to be allowed and paid to or by the said mayor, aldermen, and commonalty for the said loss and damage, or for the said benefit or advantage, as the case may be, to the said mayor, aldermen, and commonalty, by and in consequence of such said operation and improvement of opening the said public square, place, street, avenue, or part or section of a street or avenue so to be opened, or laying out and forming or extending, enlarging, or otherwise improving the said street or public place so to be laid out and formed, or extended, enlarged or otherwise improved, as the case may be. It shall not, however, be lawful to lay or impose any assessment whatever on any public park, square, or place, or street, road, or avenue, but all assessments which may be properly payable by the mayor, aldermen, and commonalty shall be assessed against them in a gross sum in each and every of such proceedings.

1871, ch. 290, §9, Comp. 648.
Assessments not to be imposed on parks or squares, for improving thereof.

1840, ch. 326, §7, Comp. 644.
Amount at which property is to be assessed.

31 How. 42;
66 N. Y. 395; 69 N. Y. 353, 452;
70 N. Y. 476; 10 Hun 112; 5 Hun 287, 442; 14 Hun 14; 11 Hun 381;
74 N. Y. 610;
55 How. 57;
75 N. Y. 354.
1813, ch. 86, §181, Comp. 623.
Contracts between landlord and tenant to cease in certain cases.
19 Wend. 678;
45 N. Y. 102; 46 N. Y. 318;
8 Wend. 85.

§ 981. Commissioners for making estimates and assessments for any improvements authorized by law to be assessed upon the owners or occupants of houses and lots, or improved or unimproved lands, shall in no case assess any house, lot, improved or unimproved lands more than one-half the value of such house, lot, improved or unimproved land as valued by the tax commissioners.

§ 982. In all cases where the whole of any lot or parcel of land or other premises under lease or other contract, shall be taken for any of the purposes aforesaid, by virtue of this title, all the covenants, contracts, and engagements between landlord and tenant, or any other contracting parties, touching the same or any part thereof, shall, upon the confirmation of such report in the premises as shall be confirmed by the court aforesaid respectively, cease and determine, and be absolutely discharged;

and in all cases where part only of any lot or parcel of land, or other premises so under lease or other contract, shall be so taken for any of the purposes aforesaid, all contracts and engagements respecting the same shall, upon the confirmation of such report in the premises, as shall be so confirmed as aforesaid cease, determine, and be absolutely discharged, as to the part thereof so taken, but shall remain valid and obligatory as to the residue thereof; and the rents, considerations, and payments reserved or payable, and to be paid, for or in respect to the same, shall be so apportioned as that the part thereof justly and equitably payable, or that ought to be paid, for such said residue thereof, and no more, shall be demanded or paid, or recoverable, for or in respect of the same.

§ 983. It shall be the duty of the department or board having the direction or charge of the opening of any street, avenue, or public park or place, to furnish to the commissioners of estimate and assessment, that may be appointed in any proceeding to open any street, avenue, or public park or place in said city, such surveys and maps as may be required by them in such proceeding. The expense of such surveys and maps shall not be included in any assessment in such proceeding. Such surveys and maps shall be made by surveyors in the regular and stated employment of such department. From the surveys and maps thus furnished, and such other information as the said commissioners shall possess or obtain, they shall cause diagrams to be prepared which shall distinctly indicate by separate numbers, the names of the owners of, or claimants to the respective tracts or parcels of lands to be taken or assessed in such proceeding, and which shall also specify in figures, with sufficient accuracy, the dimensions, metes, and bounds of each of said tracts or parcels. Whenever the said commissioners shall be unable to ascertain, with sufficient certainty, the name of any owner of any parcel of said lands, they shall indicate such parcel upon the diagram embracing it, and in their report as belonging to unknown owners.

§ 984. The said commissioners shall deposit with the commissioner of public works an abstract of their estimate and assessment at least forty days before their report shall be presented to said court for confirmation, which abstract shall be accompanied by copies of the said diagrams, and which shall refer to the numbers thereby indicated, and state the several sums respectively estimated for or assessed upon each of said parcels, with the name or names, claimant or claimants, so far as ascertained by said commissioners. They shall also deposit all the affidavits, estimates, and other documents used by them in making their report. They shall also publish a notice for

1880, ch. 579, §1.
Surveys and
maps to be
furnished.
Expense of.

1862, ch. 483, §2,
Comp. 655.
Diagrams to be
prepared.

1862, ch. 483, §3,
Comp. 655.
Abstract of
estimate, etc.,
to be deposited
with commis-
sioner of public
works.
18 Hun. 483.
1839, ch. 209, §4,
Comp. 640.
Publication of
notice.
1839, ch. 209, §5,
Comp. 640.
Notice of
making report.

thirty days in the City Record, and when authorized pursuant to section sixty-six of this act, in two of the daily newspapers published in said city, stating their intention to present their report for confirmation to the said court at a time and place to be specified in said notice, and that all persons interested in such proceeding or in any of the lands affected thereby, having objections thereto, shall file the same, in writing, with said commissioners within thirty days after the first publication of said notice, and that the said commissioners will hear such objections within the ten week days next after the expiration of said thirty days. Similar notice, for at least twenty days, shall be given of any supplemental or amended report.

1860, ch. 296, §4,
Comp. 644.
Reports may
not be altered
in certain
cases.

§ 985. It shall not be lawful for commissioners of estimate and assessment to alter or amend any report; or supplemental or amended report, after the same shall have been deposited for inspection as required by law, by increasing the amount of any assessment for benefit, or diminishing any award for damage, unless the person or persons, party or parties, affected by such increase or diminution shall have had notice thereof, and an opportunity of being heard before said commissioners before their report shall be presented to the court for confirmation.

1839, ch. 209, §5,
Comp. 640.
Objection to
assessment.
49 How, 209;
13 Hun, 483;
16 Johns, 231;
1 Cow, 74;
19 Wend. 696.

§ 986. Any person or persons whose rights may be affected by the said estimate and assessment, and who shall object to the same or any part thereof, may, within thirty days after the first publication of the said notice, state his, her, or their objections to the same in writing to the said commissioners; which statements shall not be received by the said commissioners, unless verified by his, her, or their affidavits, or the affidavits of other persons, or both; and it shall be the duty of the said commissioners, in all cases, to transmit to the said court, together with their said report, all the written statements and affidavits which may have been served upon them within the time aforesaid. And at the expiration of the said thirty days, it shall be the duty of the said commissioners to give at least ten days' notice in manner aforesaid, of a time and place when and where any person or persons, who may consider themselves aggrieved by such estimate or assessment, shall be heard in opposition to the same; and the said commissioners shall have power to adjourn from time to time, within the space of ten judicial days, until all such person or persons are fully heard.

1839, ch. 209, §6,
Comp. 641.
Witness, how
compelled to
testify.

§ 987. Upon the application of any person or persons whose rights may be affected by the said estimate or assessment, verified by the oath or affirmation of such applicant or his agent, that any witness, residing or being in the city and county of New York, whose affidavit to verify or oppose any objection to the said estimate or assessment is material or necessary to such

party, refuses voluntarily to appear before any officer authorized to take such affidavit, to testify or affirm to such matters as he may know, touching such objection, any one of the justices of the superior court may issue a subpoena, under his hand, requiring such witness to appear and testify to such matters as he may know, touching the said estimate or assessment, at such time and place as the said justice may designate in such subpoena. And every person who, being served with such subpoena, shall, without reasonable cause, refuse or neglect to appear, or appearing shall refuse to answer, under oath or affirmation, touching the matters aforesaid, shall forfeit to the party injured one hundred dollars; and may also be committed to prison by the judge who issued such subpoena, there to remain, without bail, and without the liberties of the jail, until he shall submit to answer, under oath or affirmation as aforesaid. The testimony of such witness, when given, shall be reduced to writing in the presence of, and be sworn or affirmed to before such judge.

§ 988. After considering the objections, if any, and making any correction or alteration of their estimate or assessment, which said commissioners, or any two of them, shall find to be just and proper, the said commissioners, or any two of them, shall present their report to the court at the time and place specified in said notice.

1862, ch. 483, §4.
Comp. 656.
10 Abb. N. S.
338.
Report to be
made to the
court.

§ 989. The said report shall consist of the diagrams hereinbefore referred to duly corrected, when necessary, with a tabular abstract of the estimate and assessment, with any corrections or alterations thereof by said commissioners. In said report the commissioners who shall make the same, shall set forth the names of the respective owners, lessees, parties, and persons entitled unto or interested in the said lands, tenements, hereditaments, and premises mentioned in the said report, and each and every part and parcel thereof as far forth as the same shall be ascertained by them, and an apt and sufficient designation or description of the respective lots or parcels of land and other tenements, hereditaments, and premises that may be required for the purpose of opening such public square, place, street, or avenue, or part or section of a street or avenue so to be opened, or laying out and forming or extending, enlarging, or otherwise improving such street or public place so as to be laid out and formed, or so to be extended, enlarged, or otherwise improved, as the case may be, and also of the said respective lots or parcels of land and other tenements, hereditaments, and premises not included within, but deemed to be benefited by the same and so assessed by the said commissioners for the said benefit as aforesaid. It shall refer to the numbers of the tracts and parcels indicated by said diagrams, and state the several

1862, ch. 483, §4.
Comp. 656.
1813, ch. 86, §178.
Comp. 621.

19 Wend. 678.

The like as to
adjacent land
included in
assessment.
16 Abb. 56;
4 Sand. 50.

1862, ch. 483, §4.
Comp. 656.

Report to be
filed.

sums respectively estimated for or assessed upon each of said tracts or parcels, with the name or names of the owners or claimants of each, if ascertained by said commissioners. It shall not be necessary in said report to describe any of the said tracts or parcels by metes and bounds, but only by reference to the said diagrams. It shall also set forth the several and respective sums estimated and assessed as and for the compensation and recompense or the allowance to be made for the loss and damage, or for the benefit, as the case may be, of the respective owners of the fee or inheritance of such said lands, tenements, hereditaments, and premises respectively, and for the loss and damage, or for the benefit, as the case may be, of the respective owners of the leasehold estates or other interests therein separately; but in all and each and every case and cases where the owners and parties interested, or their respective estates and interests are unknown or not fully known to the said commissioners, it shall be sufficient for them to estimate and assess, and to set forth and state in their said report, in general terms, the respective sums to be allowed and paid to or by the owners and proprietors generally of such said lands, tenements, hereditaments, and premises, and parties interested therein for the loss and damage, or for the benefit and advantage, as the case may be, to such owners, proprietors, and parties interested in respect of the whole estate and interest of whomsoever may be entitled unto or interested in the said lands, tenements, hereditaments, and premises respectively, by and in consequence of the said operation and improvement of opening, laying out, and forming or extending, enlarging, or otherwise improving the said public square or place, street, avenue, or part or section of a street or avenue so to be opened, or so to be laid out and formed or extended, enlarged or otherwise improved as the case may be, without specifying the names or the estates or interests of such owners and proprietors and parties interested, or of any or either of them.

Unknown
owners.
31 How. 42;
1 Abb. N. S. 80;
19 Wend. 678;
57 N. Y. 314;
81 N. Y. 436;

1839, ch. 209, §1,
Comp. 639.
Application for
confirmation of
report.
1813, ch. 86,
§178, Comp. 621.
16 Johns. 231;
1 Cow. 74;
19 Wend. 896.

Proceedings,
when to be
discontinued.
1813, ch. 86,
§178, Comp. 621.

§ 990. The application for the confirmation of the report shall be made to the supreme court at a term thereof held in the city of New York. Upon the coming in of the said report signed by the said commissioners, or any two of them, and upon the hearing of the application for the confirmation thereof, if persons who appear by the said report to be interested, either by assessment for benefit or award for damages, to the amount of a majority in amount of the whole assessments and awards, shall appear and object to further proceedings upon the said report, the court shall order the same to be discontinued, and the same shall thenceforth be discontinued; otherwise the said courts shall, by rule or order, after hearing any matter which may

be alleged against the same, either confirm the said report or refer the same to the same commissioners for revisal and correction, or to new commissioners, to be appointed by the said court to reconsider the subject matter thereof, and the said commissioners to whom the said report shall be so referred, shall return the same report corrected and revised, or a new report to be made by them in the premises, to the said court without unnecessary delay; and the same, on being so returned, shall be confirmed or again referred by the said court in manner aforesaid, as right and justice shall require, and so from time to time until a report shall be made or returned in the premises, which the said court shall confirm; and such report, when so confirmed by the said court, shall be final and conclusive, as well upon the said mayor, aldermen, and commonalty of the city of New York, as upon the owners, lessees, persons, and parties interested in and entitled unto the lands, tenements, hereditaments, and premises mentioned in the said report; and also upon all other persons whomsoever; and on such final confirmation of such report by the said court, the said mayor, aldermen, and commonalty of the city of New York shall become and be seized in fee of all the said lands, tenements, hereditaments, and premises in the said report mentioned, that shall or may be so required for the purpose of opening the said public square, or place, or street, or avenue, or part or section of a street or avenue so to be opened, or for the purpose of laying out and forming the said street or public place so to be laid out and formed, or for the purpose of extending, enlarging, or otherwise improving the street or public place so to be extended, enlarged or otherwise improved, as the case may be, the same to be appropriated, converted, and used to and for such said purpose accordingly; and thereupon the said mayor, aldermen, and commonalty, or any person or persons acting under their authority, may immediately, or at any time or times thereafter, take possession of the same, or any part or parts thereof, without any suit or proceeding at law for that purpose: In trust, nevertheless, that the same be appropriated and kept open for, or as part of a public street, avenue, square, or place forever, in like manner as the other public streets, avenues, squares, and places in the said city are, and of right ought to be.

§ 991. Duplicate copies of said report, signed by the said commissioners, or any two of them, shall be filed by the counsel to the corporation of said city, one in the office of the commissioner of public works, and the other in the office of the clerk of the city and county of New York.

§ 992. The said mayor, aldermen, and commonalty shall, within four calendar months after the confirmation of the report

Report to be confirmed by supreme court or referred for revisal.
61 Barb. 40;
8 Barb. 505;
7 Cow. 400.

Report when confirmed to be final and conclusive.
59 Barb. 295;
62 Barb. 671;
53 N. Y. 202;
1 Wend. 262.
55 How. 57;
3 Daly, 174;
3 Abb. N. C.
372; 10 Abb. N.
5. 338; 49 N. Y.
150; 50 N. Y.
403; 12 N. Y.
406; 11 Wend.
154; 27 N. Y.
189; 37 Barb.
357; 25 How.
258; 55 How. 57.

Corporation to take possession of premises required for streets, etc.

1832, ch. 483, §4.
Comp. 656.

1813, ch. 86, §183.
Comp. 625.

Damages
awarded, when
to be paid.
57 N. Y. 314;
46 N. Y. 318;
67 Barb. 35;
56 N. Y. 333;
1 Sween. 7.

of the commissioners in the premises by the court, or within four months after the expiration of the time or times which they may appoint in accordance with law for carrying improvements into effect, pay to the respective persons and bodies politic or corporate, mentioned or referred to in the said report, in whose favor any sum or sums of money shall be estimated and reported by the said commissioners, the respective sum or sums so estimated and reported in their favor respectively; and in case of neglect or default in the payment of the same within the time aforesaid, the respective person or persons, or party or parties, in whose favor the same shall be so reported, his, her, or their executors, administrators, or successors, at any time or times, after application first made by him, her, or them, to the said mayor, aldermen, and commonalty, for payment thereof, may sue for and recover the same, with lawful interest, from and after the said application therefor, and the costs of suit, in any proper form of action against the said mayor, aldermen, and commonalty, in any court having cognizance thereof, and in which it shall be sufficient to declare generally for so much money due to the plaintiff or plaintiffs therein by virtue of this title, for premises taken for the purposes herein mentioned, and the report of the said commissioners, with proof of the right and title of the plaintiff or plaintiffs to the sum or sums demanded, shall be conclusive evidence in such suit or action.

1813, ch. 86, § 181,
Comp. 626.

Moneys of
infants, non
compos mentis,
femes covert,
etc., may be
paid into court.
57 N. Y. 344.

§ 993. Whenever the owners and proprietors of any such lands, tenements, hereditaments, and premises so to be taken for any of the purposes aforesaid, or the party or parties, person or persons interested therein, or any or either of them, the said owners, proprietors, parties, or persons in whose favor any such sum or sums or compensation shall be so reported, shall be under the age of twenty-one years, non compos mentis, feme covert, or absent from the city of New York, and also in all cases where the name or names of the owner or owners, parties or persons entitled unto or interested in any lands, tenements, hereditaments, or premises that may be so taken for any of the purposes aforesaid, shall not be set forth or mentioned in the said report, or where the said owners, parties, or persons respectively, being named therein, cannot upon diligent inquiry be found, it shall be lawful for the said mayor, aldermen, and commonalty to pay the sum or sums mentioned in the said report, payable, or that would be coming to such owners, proprietors, parties, and persons respectively, into the said supreme court, to be secured, disposed of, and improved as the said court shall direct, and such payment shall be as valid and effectual, in all respects, as if made to the said owners, proprietors, parties, and persons respectively themselves, according to their just rights, as

if they had been known and had all been present, of full age, discreet and compos mentis; and provided also, that in all and each and every case and cases, where any such sum or sums, or compensation, so as to be reported by the said commissioners in favor of any person or persons, or party or parties whatsoever, whether named or not named in the said report, shall be paid to any person or persons, or party or parties whomsoever, when the same shall of right belong, and ought to have been paid to some other person or persons, or party or parties, it shall be lawful for the person or persons, or party or parties, to whom the same ought to have been paid, to sue for and recover the same, with lawful interest and costs of suit, as so much money had and received to his, her, or their use, by the person or persons, party or parties respectively, to whom the same shall have been so paid.

Recovery of
compensation
when paid
wrong party.

§ 994. All the moneys which the said mayor, aldermen, and commonalty shall pay, disburse, and expend, or become liable or bound to pay, disburse, and expend, for cessions by agreement, and in discharge or on account of the sums or estimates of compensation and recompense that may be reported by the commissioners in favor of the respective persons and parties deemed to be entitled thereto, and the charges and expenses of the estimate and assessment and report that may be made in the premises, and all such other expenses, disbursements, and charges also, as may arise or take place by and in consequence of the provisions of this title, for and about the opening of any such public square or place, street, avenue, or part or section of a street or avenue so to be opened, or laying out and forming, or extending, enlarging, or otherwise improving any such street or public place so to be laid out and formed or extended, enlarged, or otherwise improved, as the case may be, and the acquisition of the lands, tenements, hereditaments, and premises required for that purpose (except such sum or sums as may be assessed upon the said mayor, aldermen, and commonalty, according to the provisions of this title in that behalf), shall be borne and reimbursed and paid to the said mayor, aldermen, and commonalty, by the parties and persons interested and entitled, as owners or otherwise, unto and in the lands, tenements, hereditaments and premises deemed to be benefited thereby, and the same, or the excess and balance thereof, if any such excess and balance thereof there shall be, over and above the amount of the sums or assessments that may be assessed upon the parties and persons, lands and tenements, assessed by the commissioners in the premises for the benefit of such public square or place, street or avenue, or part or section of a street or streets, so to be opened, or of such street or public place so to be laid out and formed, or

1813, ch. 86, § 183.
Comp. 627.
Moneys expended, to be assessed upon persons benefited.

Assessments,
when
conclusive.

of the extension, enlargement, or other improvement of the street or public place so to be extended, enlarged, or otherwise improved as the case may be, together with the charges of the after-mentioned assessment and collection thereof, shall and may be estimated and assessed by the board of assessors provided for in section eight hundred and sixty-five of this act, upon and among all the owners, occupants, and parties seized or possessed of, or interested in all the lands, tenements, hereditaments, and premises not assessed by the said commissioners of estimate and assessment, nor included in their said report, that may be benefited by the said public square or place, street, or avenue, or part or section of a street or avenue so to be opened, or the said public square or place so to be laid out and formed, or the extension, enlargement, or other improvement of the public street or place so to be extended, enlarged, or otherwise improved as the case may be, in proportion, as nearly as may be, to the advantage which each shall be deemed to acquire thereby; and the said assessors, after having made such estimate and assessment, shall certify the same and make a return thereof in writing, and the same, when ratified and confirmed, shall be binding and conclusive upon the parties and persons so to be assessed, respectively, and upon all other persons whomsoever; provided, however, that no part of such said moneys so to be estimated and assessed by the said assessors, shall be assessed upon any party or person whomsoever, for or on account of any lands, tenements, hereditaments, or premises included in the aforesaid report of the commissioners of estimate and assessment, and by them made the subject of their said estimate and assessment; but if any such party or person shall be entitled unto or interested in any other lands, tenements, hereditaments, or premises, not included in the said report, that may be deemed to be benefited as aforesaid, such party or person shall be assessed therefor in proportion to the advantage deemed to be acquired in respect to the same.

1813, ch. 86, § 186,
Comp. 628.
Sums assessed
to be a lien on
premises
assessed.
1 Hun. 1;
12 N. Y. 140.

§ 995. As well the respective sums so to be assessed by the said assessors upon the owners, occupants, and parties seized or possessed of or interested in the lands, tenements, hereditaments, and premises mentioned in the said certificate and return of them the said assessors, as also the respective sums or assessments so to be assessed and reported by the said commissioners of estimate, and assessment, as and for the allowance to be made by the parties and persons respectively in the said report mentioned or referred to, and intended as owners and proprietors of, or parties interested in, lands and premises deemed to be benefited, for the benefit and advantage of the public square or place, street, avenue, or part or section of a street or avenue, or of the extension, enlargement, or other improvement of the street or public

place mentioned in the said report, shall be a lien or charge on the lands, tenements, hereditaments, and premises in the said certificate and return of the said assessors, or in the said report of the said commissioners mentioned, or upon the estate an interest of the respective owners, lessees, and parties interested in such said lands, tenements, hereditaments, and premises for or on account of which the said respective sums shall be so assessed by the said commissioners or assessors, as the case may be, upon the said respective owners and proprietors thereof, or parties interested therein. As well the said owners and proprietors thereof and parties interested therein, and also the occupants and each and every of them shall, moreover, be respectively liable to pay on demand the respective sum or sums or assessments mentioned in the said certificate and return of the assessors, or in the said report of the commissioners, as the case may be, at which the respective lands, tenements, hereditaments, and premises so owned or occupied by him, her, or them, or wherein he, she, or they are so interested, or at which the owners and proprietors thereof shall be so assessed, to such person or persons as the said mayor, aldermen, and commonalty shall appoint to receive the same. The said respective sums or assessments, with such lawful interest as aforesaid, may be recovered with all costs and charges, by the said mayor, aldermen, and commonalty, from and against the parties assessed, or the owner or owners of the respective lands, tenements, hereditaments, and premises whereon or in respect of which the same may be assessed, or set forth in the said report of the commissioners, or return of the assessment, as the case may be, or from or against any or either of the said parties or owners, without joining any other or others of them the said parties or owners therein, by action; provided that nothing herein contained shall affect any agreement between landlord and tenant, or any other contracting parties respecting the payment of any such assessment or charges, but they shall be answerable to each other in the same manner as if the provisions in this title contained concerning the same had never been made; and if any money so to be assessed, be paid by or collected or recovered from any person or persons when by agreement or by law the same ought to have been borne and paid by some other person or persons, it shall be lawful for the person or persons paying the same, or from whom the same shall be recovered by suit or otherwise, to sue for and recover the money so paid by or recovered from him or them, with interest and costs, as so much money paid for the use of the person or persons who ought to have paid the same, and the said report of the commissioners, with proof of payment, shall be conclusive evidence in such suit.

Or recovered
by action.

Persons paying
assessment for
others who
ought to pay,
may recover
same back.

1813, ch. 152, §2,
Comp. 682.
Certain ex-
penses to be
paid by the
corporation.
Id. §1.

§ 996. No such assessment as is directed in and by the preceding section shall be made after the confirmation of the report of the commissioners, in cases of the opening of public squares or places (other than and except the streets and avenues) laid out by the commissioners of streets and roads in the city of New York, under and by virtue of the act entitled, "an act relative to improvements touching the laying out of streets and roads in the city of New York, and for other purposes," passed April third, eighteen hundred and seven, or any or either of the said public squares or places, as altered by the legislature, but all the excess and balance of the sums or estimates of compensation and recompense that may be reported by the said commissioners in favor of the respective persons and parties entitled thereto, and of the expenses and charges of the estimate and assessment and report that may be made in the premises, and all other expenses, disbursements and charges in the premises over and above the amount of the sums or assessments which may be assessed by the said commissioners upon the persons and parties, lands and tenements, for the benefit of such public square or place, shall be borne and paid by the mayor, aldermen and commonalty of the city of New York, without any such assessment and collection as is directed in and by section nine hundred and ninety-four.

1881, ch. 33, §§4,
5.
Comptroller to
publish notice
of confirmation
of assessment,
etc.

§ 997. It shall be the duty of the comptroller to give public notice, by advertisement, for at least ten days, in the City Record, immediately after the confirmation of any assessment for a street opening, that the same has been confirmed, specifying the title of such assessment, and the date of its confirmation by the supreme court, and also the date of entry in the record of titles of assessments kept in the bureau for the collection of assessments and of arrears of taxes and assessments, and of Croton water rents, notifying all persons, owners of property affected by any such assessment, that, unless the amount assessed for benefit on any person or property shall be paid within sixty days after the date of said entry of any such assessment, interest shall thereafter be collected thereon as provided in the following section; and all provisions of law or ordinance requiring any other or different notice of assessments and interest thereon are repealed.

Interest to be
charged if not
paid within
sixty days.

§ 998. If any such assessment shall remain unpaid for the period of sixty days after the date of entry thereof in the said record of titles of assessments, it shall be the duty of the officer authorized to collect and receive the amount of such assessment, to charge, collect, and receive interest thereon, at the rate of seven per centum per annum, to be calculated from the date of such entry to the date of payment.

§ 999. Whenever an estimate and assessment for loss and damage and for benefit and advantage shall be made by the commissioners of estimate and assessment relative to the same person or persons, no interest shall be demanded from such person or persons upon the amount assessed for benefit and advantage, except on the excess of the amount he is to pay over and above the amount he is to receive for or in consequence of any intervening time between the period fixed for the receipt of the amount of benefit and advantage and the payment of the amount of loss and damage.

1839, ch. 209, §12
Comp. 642.
Interest on
amount of
assessment.

§ 1000. No costs or charges to the said commissioners or others shall be paid or allowed for any services performed under this title, unless the same shall be taxed by the said court, who are required to make or continue rules to apply to the said bill of costs, the existing laws in relation to the taxation of costs, and the nature and proof of the services rendered and disbursements charged, as far as the same can be made applicable; and no unnecessary cost or charges shall be allowed. The fees of such commissioners of estimate and assessment, exclusive of necessary disbursements hereinafter mentioned, shall not exceed in the aggregate the sum of twenty cents a foot for the lineal extent of the street or avenue or the portion thereof so to be opened or altered; but when the assessment district shall extend beyond the street or avenue lying nearest to and having the same general direction as the street to be opened, the fees of such commissioners of estimate and assessment may be increased in the aggregate to not exceeding twenty cents for every twenty-five hundred square feet of territory embraced in the assessment district lying beyond the said nearest street or avenue; but in any case such additional fees of said commissioners shall not exceed ten cents for each lineal foot of the street or avenue or portion thereof to be opened or altered. No costs, charges or expenses of any description shall be allowed in such proceeding, or charged on any lands affected thereby, except the compensation of the commissioners as above limited and their necessary disbursements for room rent actually paid, but in no case to exceed one dollar per day; for advertising, printing or posting any notices required by law, and for any other necessary incidental expense, not exceeding one hundred dollars.

1839, ch. 209, §12,
Comp. 642.
Costs of
commissioners,
etc., to be
taxed.

1880, ch. 579, §1,
Commissioners
of estimate.

Costs and
charges.
1862, ch. 488, §5.
Comp. 656.

§ 1001. A bill of said costs, charges and expenses shall be filed with the commissioner of public works at least ten days before the same shall be presented for taxation, and a notice of at least ten days shall be published in two of the daily newspapers published in the said city, of the time and place of taxing said costs, charges and expenses, which shall be thereupon taxed by a judge of the supreme court or a referee under his

1862, ch. 483, §6,
Comp. 656.
1 Hun, 1.
Bill of costs to
be filed.

special order, and before the report of said commissioners shall be presented for confirmation.

1854, ch. 122, §2,
Comp. 654.
Expenses, how
assessed.

§ 1002. All moneys paid under the provisions of this title by the mayor, aldermen, and commonalty aforesaid, shall be assessed equally and proportionately, as far as the same may be practicable, upon the lands and premises benefited by the improvement, and shall be a lien and charge thereon, and shall be applied, levied, and collected in the manner provided by law for the assessment, levy, and collection of similar expenses and disbursements for the reimbursement of the city treasury.

1873, ch. 335,
§105, Comp. 614.
12 Abb. 107.
Proceedings as
to streets may
be discontin-
ued.

§ 1003. The board referred to in section nine hundred and fifty-five is authorized and empowered to discontinue any and all legal proceedings taken for laying out, opening, widening, straightening, extending, altering, or closing streets or avenues, or parts of streets or avenues, south of Fifty-ninth street, at any time before the confirmation of the report of the commissioners of estimate and assessment in such proceedings, if, in the opinion of said board, the public interest requires such discontinuance, and with the power to cause new proceedings to be taken in such cases for the appointment of new commissioners. The mayor, aldermen, and commonalty, acting by the authority which commenced such proceedings, shall be authorized at any time previous to the confirmation of the report by the said court, to discontinue all further proceedings relative to any improvement under this title, without the necessity of an application to said court for leave so to do. The mayor, aldermen and commonalty may, except as in this act otherwise specially provided, suspend the opening, extending, enlarging, altering or improving of any street, road, avenue, or public place, which may be ordered to be opened, extended, enlarged, or altered in the said city, for such time or times as they shall think proper, not exceeding fifteen months in the whole, after the confirmation of the report of the commissioners of estimate and assessment.

1839, ch. 200, §7,
Comp. 641.
1818, ch. 210, §1,
Comp. 637.
Corporation
may suspend
opening, etc.,
streets for a
limited period.
46 N. Y. 318;
56 N. Y. 533;
67 Barb. 35.

§ 1004. The said mayor, aldermen and commonalty may permit any building which shall be either partly or wholly included within the limits of any such street, avenue, public square, or place laid out in the said city, by the commissioners of streets and roads in the city of New York, under and by virtue of the before-mentioned act, entitled "an act relative to improvements touching the laying out of streets and roads in the city of New York, and for other purposes," and so to be opened as aforesaid, to remain unremoved for such time or times as they shall think proper.

1813, ch. 86, §178,
Comp. 622.
Certain
buildings to
remain
unremoved.

§ 1005. It shall be lawful for the commissioners of estimate and assessment to administer oaths in all cases, in any manner appertaining to the opening, extending, enlarging or altering of any street or public place in the said city.

1818, ch. 210, §2, Comp. 687. Commissioners may administer certain oaths.

§ 1006. Any notice now required or hereafter to be required by law to be published in any proceeding for the opening, excluding, widening or altering any street, avenue, public place, square, or park in said city, shall hereafter be published in the City Record or, when authorized pursuant to the provisions of section sixty-six of this act, in not more than two daily newspapers. Whenever hand-bills now are or hereafter may be required by law to be posted in any such proceeding, they shall be posted and affixed with paste or other adhesive substance in three conspicuous places upon or near the lands to be taken in such proceedings, and proof of such posting shall be sufficient evidence without further proof of said notice having remained posted during the whole of the period required by law.

1862, ch. 488, §8, Comp. 656. Publications, how made.

§ 1007. It shall be unlawful to open any streets or roads through the grounds belonging to the corporation of St. John's College, in its actual occupation or use in the Twenty-fourth ward, at what was formerly known as Fordham.

1871 ch. 39, §1, Comp. 646. St. John's College.

§ 1008. Nothing contained in this title shall be construed as affecting any provision of special acts relating to particular districts or portions of the city, so far as such provisions are inconsistent with the provisions of this title.

Title 6.—Closing Streets, Avenues, etc.

§ 1009. The board of street openings and improvements is authorized and empowered to close all streets and avenues, or such parts thereof as they may deem for the public interest so to do, in that part of the city south of Fifty-ninth street, and to direct the counsel to the corporation to take such proceedings in the name of the mayor, aldermen, and commonalty for the closing of such streets or avenues, or parts thereof, as are provided by law, who shall thereupon apply to the supreme court for the appointment of commissioners of estimate and assessment in the matter of the closing of said street, avenue, or part thereof, in the manner provided by law. And said board is also authorized and empowered to discontinue any and all legal proceedings taken for closing streets or avenues, or parts of streets or avenues, south of Fifty-ninth street, at any time before the confirmation of the report of the commissioners of estimate and assessment in such proceedings, if, in the opinion of said board, the public interest requires such discontinuance, and with power to cause new proceedings to be taken in such cases for the appointment of new commissioners. A majority

1873, ch. 335, §105, Comp. 613. Closing of streets.

When legal proceedings as to streets may be discontinued.

Quorum of board.

of said board shall constitute a quorum, but the vote of a majority of all the members thereof shall be necessary to any act of said board.

1818, ch. 213, §1,
Comp. 649.
Proceedings
regulated in
case roads, etc.,
are closed.

§ 1010. It shall be lawful for the mayor, aldermen, and commonalty of the city of New York, from time to time, whenever they shall judge proper, to cause application to be made to the supreme court of this State, for the appointment of commissioners for the purpose of performing the duties hereinafter prescribed ; and upon such application it shall be lawful for the said court to whom such application shall be made, to nominate and appoint three discreet and disinterested persons commissioners of estimate, for the purpose of performing the duties hereinafter prescribed ; which said commissioners, before they enter upon the performance of the duties of their appointment, shall severally take and subscribe an oath or affirmation before some person authorized by law to administer an oath, "faithfully to perform the trust and duties required of them by this title," which oath or affirmation shall be filed in the clerk's office of the city of New York ; and it shall be the duty of the said commissioners, as soon as conveniently may be after their appointment, to make a just and true estimate of the loss and damage to the respective owners, lessees, parties, and persons respectively entitled unto, or interested in, any lands, tenements, hereditaments, or premises, by or in consequence of closing any road, street, lane, or alley, or any part of any road, street, lane, or alley, and converting the same to the use of the said mayor, aldermen, and commonalty, and to report thereon to the said supreme court without unnecessary delay, and in the said report the commissioners who shall make the same shall set forth the names of the respective owners, lessees, parties, and persons aforesaid entitled unto, or interested in, the lands, tenements, hereditaments, and premises aforesaid, and each and every part and parcel thereof, as far forth as the same shall be ascertained by them, and an apt and sufficient designation or description of the same ; but in each and every case and cases, when the owners and parties interested, or their respective estates and interests, are unknown or not fully known to the said commissioners, it shall be sufficient for them to estimate and set forth and state in their said report, in general terms, the respective sums to be allowed and paid to the owners and proprietors generally, of such lands, tenements, hereditaments, and premises, for the loss and damage to such owners, proprietors, and parties interested, in respect to the whole estate and interest of whomsoever may be entitled unto, or interested in the same, by and in consequence of closing any such road, street, lane or alley,

Estimate of
loss and
damage.

Report.

Power of the
supreme court
therein.

or any part of any road, street, lane, or alley, without specifying the names or the estates or interests of such owners, proprietors, and parties interested, or any of them, in the premises aforesaid; and upon the coming in of the said report, signed by the said commissioners, or any two of them, the said court shall, by rule or order, after hearing any matter which may be alleged against the same, either confirm the said report or refer the same to the same commissioners for revisal and correction, or to new commissioners to be appointed by the said court, to reconsider the subject-matter thereof; and the said commissioners to whom the said report shall be so referred, shall return the said report corrected and revised, or a new report to be made by them in the premises, to the said court, without unnecessary delay; and the same, on being so returned, shall be confirmed, or again referred by the said court, in manner aforesaid, as right and justice shall require, and so from time to time, until a report shall be made or returned in the premises, which the said court shall confirm, and such report, when so confirmed by the said court, shall be final and conclusive, as well upon the said mayor, aldermen, and commonalty of the city of New York, as upon the owners, lessees, and persons and parties interested in, and entitled unto, the lands, tenements, hereditaments, and premises mentioned in the said report, and also upon all other persons whomsoever, and on such final confirmation of such report by the said court, the mayor, aldermen, and commonalty of the city of New York shall become, and be seized in fee simple, absolute, of all such roads, streets, lanes, and alleys, or parts of such roads, streets, lanes or alleys, as they may pray to have closed in the application which they may make as aforesaid: And thereupon the said mayor, aldermen, and commonalty, or any person or persons acting under their authority, may at any time or times thereafter take the sole and exclusive possession of the same.

When corporation deemed vested of the road, etc.

§ 1011. The said commissioners of estimate, to be appointed under and by virtue of this title, after completing their said estimate, and at least fourteen days before they make their report to the said court, shall deposit a true copy or transcript of such estimate, in the clerk's office in the city of New York, for the inspection of whomsoever it may concern, and shall give notice by advertisement, to be published in the City Record or, when authorized pursuant to section sixty-six of this act, in two of the public newspapers printed in said city, of the said deposit thereof in the said office, and of the day on which their report will be presented to the said court, and any person and persons, whose rights may be affected thereby, and who shall object to the same, or any part thereof, may within ten days

1818, ch. 213, §2, Comp. 650.
Transcript of estimate, where to be deposited.

Notice to be published, and how.

after the first publication of the said notice, state his, her, or their objections to the same in writing, to the said commissioners, and the said commissioners, or such of them as shall make such estimate, in case any objections shall be made to the same, and stated in writing as aforesaid, shall reconsider their said estimates, or the part or parts thereof so objected to, and in case the same shall appear to them to require correction; but not otherwise, they shall and may correct the same accordingly.

1818, ch. 213,
§3, Comp. 650.
Corporation to
pay the sums
assessed.
Proceedings in
case of neglect
or default to
pay.

§ 1012. The said mayor, aldermen, and commonalty shall, within four months after the confirmation of the report of the commissioners in the premises, by the court, pay to the respective persons and parties mentioned or referred to in said report, in whose favor any sum or sums of money shall be estimated and reported by the said commissioners, the respective sum or sums so estimated and reported in their favor respectively; and in case of neglect or default in the payment of the same within the time aforesaid, the respective person or persons, or party or parties, in whose favor the same shall be so reported, his, her, or their executors, administrators, or successors, at any time or times after application first made by him, her or them, to the said mayor, aldermen, and commonalty for payment thereof, may sue for and recover the same, with lawful interest, from and after the said application therefor, and the costs of suit, in proper form of action, against the said mayor, aldermen, and commonalty, in any court having cognizance thereof, and the report of the said commissioners, with proof of the right and title of the plaintiff and plaintiffs to the sum or sums demanded, shall be conclusive evidence in such suit or action.

1818, ch. 213, §4.
Provision
where owners
are minors,
femes covert,
or absent.

§ 1013. Whenever the owners and proprietors of any such lands, tenements, hereditaments, and premises, to be taken by virtue of this title, or the party or parties, person or persons, interested therein, or any or either of them, the said owners, proprietors, parties or persons, in whose favor any such sum or sums or compensation shall be so reported, shall be under the age of twenty-one years, non compos mentis, feme covert, or absent from the city of New York, and also in all cases, where the name or names of the owner or owners, party or persons entitled unto, or interested in any lands, tenements, hereditaments, or premises that may be so taken, shall not be set forth or mentioned in the said report, or where the said owners, party or persons respectively, being named therein, cannot, upon diligent inquiry, be found, it shall be lawful for the said mayor, aldermen, and commonalty to pay the sum or sums mentioned in the said report, payable, or that would be coming to such owners, proprietors, parties and persons respectively, into the

supreme court, to be secured, disposed of, and improved as the said court shall direct, and such payment shall be as valid and effectual in all respects as if made to the same owners, proprietors, parties and persons respectively, themselves, according to their just rights, if they had been known and had all been present, of full age, discreet, and compos mentis; and provided also, that in all and in each and every case and cases, where any such sum or sums or compensation so to be reported by the said commissioners, in favor of any person or persons and party or parties whatsoever, whether named or not named in the said report, shall be paid to any person or persons, or party or parties whomsoever, where the same shall of right belong, and ought to have been paid to some other person or persons, or party or parties, it shall be lawful for the said person or persons, or party or parties, to whom the same ought to have been paid, to sue for and recover the same, with lawful interest and costs of suit, from the person or persons, party or parties, to whom the same shall have been paid, as so much money had and received to the use of the said plaintiff or plaintiffs, by the person or persons, party or parties respectively, to whom the same shall have been so paid.

Remedy where
moneys are
paid to parties
not entitled
thereto.

§ 1014. In case of the death, resignation, or refusal to act of any such commissioners of estimate, to be appointed under and by virtue of this title, it shall and may be lawful for the court aforesaid, or any one of the justices thereof, on the application of the mayor, aldermen, and commonalty of the city of New York, as often as such event shall happen, to appoint a discreet and disinterested person, being a citizen of the said city of New York, in the place and stead of such commissioner so dying, resigning, or refusing to act, and the surviving or acting commissioners, as the case may be, shall have full power to proceed in the execution of the duties of their appointment, until a successor of the commissioner so dying, resigning, or refusing to act shall be appointed.

1818, ch. 213, §5.
Comp. 652.
Vacancies in
commissioners,
how filled.

§ 1015. In all and every case of the appointment of commissioners under this title, it shall be competent and lawful for any two of such said commissioners so to be appointed, to proceed to and execute and perform the trust and duties of their said appointment, and their acts shall be as valid and effectual as the acts of all the commissioners so to be appointed, if they had acted therein would have been; and further, in all cases the acts, proceedings, and decisions of a major part of such of the commissioners as shall be acting in the premises, shall be as binding, valid, and effectual as if the said commissioners named and appointed for such purpose had all concurred and joined therein.

Id. §6.
Two of the
commissioners
may act.

Id. §7.
Compensation
to commis-
sioners.

§ 1016. The commissioners to be appointed under and by virtue of this title, who shall enter upon the duties of their appointment, shall each be entitled to receive the sum of not more than four dollars, besides all reasonable expenses for maps, surveys, clerk hire, and other necessary expenses and disbursements, for each day they shall respectively be actually employed in the duties of their appointment, and the same shall be paid by the mayor, aldermen, and commonalty of the city of New York.

§ 1017. The provisions of sections eight hundred and sixty-nine and eight hundred and seventy-one of this act shall apply to proceedings under this title in the same manner as if the commissioners were therein named instead of assessors.

Id. §8.
Proceedings to
close, open,
etc., streets.

§ 1018. Whenever and as often as the mayor, aldermen, and commonalty of the city of New York shall be desirous to open, lay out, or form any street or public place, or to extend, enlarge, straighten, alter, or otherwise improve any street or public place, which shall be contiguous to, or in the neighborhood of any lot of ground fronting on any street or part of a street, which they may pray to have closed as aforesaid, then it shall be lawful for them to unite in such application as aforesaid, an application to the said court to open, lay out, and form any such street or public place, or to extend, enlarge, straighten, alter, or otherwise improve any such street or public place, in pursuance of the provisions of title five of this chapter.

1818, ch. 218, §9.
Comp. 658.
Duty and pro-
ceedings of the
commissioners.

§ 1019. When applications to close and to open, extend, enlarge, straighten, or alter any street, lane, alley, or public place, shall be united in the same application as aforesaid, it shall be the duty of the said commissioners to proceed to and make a just and equitable estimate and assessment of the loss and damage, if any, over and above the benefit and advantage, or of the benefit and advantage, if any, over and above the loss and damage, as the case may be, to the respective owners, lessees, parties, and persons respectively entitled unto or interested in the lands, tenements, hereditaments and premises fronting on any road, street, lane, or alley, which application may be made to close as aforesaid, by and in consequence of closing any such road, street, lane or alley, or opening, extending, enlarging, straightening or altering any such street or public place; and it shall not be lawful for the said owners, lessees, parties, and persons, respectively as aforesaid, to recover from the said mayor, aldermen and commonalty any larger sum on account of the premises than the sum so estimated to be their loss and damage over and above their benefit and advantage.

Id. §10.
Damages
deducted from
benefit.

§ 1020. When applications shall be joined as aforesaid it shall be the duty of the said commissioners to deduct from the

amount of the damages which may be sustained by and in consequence of opening, laying out, and forming any street or public place, or extending, enlarging, straightening, altering, or otherwise improving any street or public place, the amount which the road, street, lane or alley may be worth, if any, over and above the sum which the said mayor, aldermen and commonalty may be required to pay for the same as aforesaid, and to assess that sum upon the said mayor, aldermen and commonalty, or if the sum which they shall be required to pay for the same as aforesaid shall exceed the value of the same, then it shall be the duty of the said commissioners to award to the said mayor, aldermen and commonalty the amount of such deficiency, and to assess the same upon the property of those which may be benefited as aforesaid.

When assessed on the corporation.

§ 1021. In all cases when no part of any lot or parcel of land, or other premises under lease or other contract, shall be contiguous to any road, street, lane or alley, after the closing of a road, street, lane or alley as aforesaid, all the covenants, contracts, and agreements between landlord and tenant, or any other contracting parties touching the same or any part thereof, shall, upon the confirmation of such report in the premises, by the said court, respectively cease and determine, and be absolutely discharged.

Id. § 11.
Covenants, etc., between landlord and tenant, etc., when discharged.

CHAPTER XVII.

EDUCATION.

Title 1.—The Public Schools and their Management.

§ 1022. There shall be in the city of New York a board of education, which shall, under that designation, have full control of the public schools and the public school system of the city, subject only to the general statutes of the State upon education. Said board shall consist of twenty-one commissioners of common schools, appointed by the mayor. On the third Wednesday of November, in every year, the mayor shall appoint seven commissioners of common schools, who shall take office on the first day of January next succeeding, and hold office for the term of three years. Any vacancy in the said office of commissioners of common schools, by death, resignation, or otherwise, shall be filled by appointment by the mayor for the remainder of the unexpired term. Said commissioners shall hold no other office of emolument under either the city, State, or national govern-

1873, ch. 112, §§ 2, 4, Comp. 737.
Board of education.

Id. § 3.
Commissioners, when appointed.

Vacancies, etc.

ments, except the offices of notary public and commissioner of deeds.

1873, ch. 112, §4,
Comp. 737.

School dis-
tricts.

§ 1023. The city of New York is hereby divided into eight school districts, as follows:

First district—First, second, third, fourth, fifth, sixth, and eighth wards.

Second district—Seventh, tenth, thirteenth, and fourteenth wards.

Third district—Ninth and sixteenth wards.

Fourth district—Eleventh and seventeenth wards.

Fifth district—Fifteenth and eighteenth wards.

Sixth district—Twentieth and twenty-first wards.

Seventh district—Twelfth, nineteenth, and twenty-second wards.

Eighth district—Twenty-third and twenty-fourth wards.

1873, ch. 613, §4,
as amended
1874, ch. 329,
Comp. 739.
1873, ch. 112, §7,
Comp. 738.
Inspectors to
be appointed
by mayor.
Vacancies, how
filled.

§ 1024. On the third Wednesday of November in every year, the mayor shall appoint in each school district one inspector of common schools, who shall take office on the first day of January next succeeding, and hold office for the term of three years. Any vacancy in said office of inspector of common schools, by death, resignation, or otherwise shall be filled by the mayor for the unexpired term.

1873, ch. 112, §6
as amended
1873, ch. 221, §1,
Comp. 738.

Vacancies.

§ 1025. On the first Wednesday in December in each year, the board of education shall appoint one trustee for each ward, to hold office for the term of five years from the first day of January then next. Said trustees shall be residents of the ward for which they are severally appointed. Any vacancy in the said office of trustee of common schools, by death, resignation, or otherwise, shall be filled by the board of education for the unexpired term.

1851, ch. 386, §2,
as amended
1854, ch. 101, §2,
Comp. 740.
Board of
education.

§ 1026. The members of the board of education shall meet on the second Wednesday of January in each year for the purpose of organization, and thereafter, for the transaction of business, as often as they may determine; they shall elect one of their number president, and shall appoint a clerk, and as many assistant clerks and other officers for the transaction of the business of the board as may be necessary, who shall severally hold their offices during the pleasure of the board, and whose respective duties, powers, and compensation shall be regulated and determined by the board. Said board shall have full control of the public schools and public school system of the city, subject only to the general statutes of the State upon education.

1873, ch. 112, §4,
Comp. 738.

Powers and
duties.
55 How, 176; 12
Hun, 673; 66 N.
Y. 585; 3 Hun,
35; See 1873, ch.
112, §2.

§ 1027. The board of education shall have power:

1. To take and hold property, both real and personal, devised or transferred to it for the purpose of public education in the city of New York.

2. To appoint a city superintendent of schools, and one or more assistant superintendents, and also a superintendent of school buildings, whose respective duties, powers, salaries, and terms of office, except as herein otherwise provided, shall be regulated and determined by the board of education; and to employ, under the superintendent of school buildings, necessary workmen, and provide necessary materials for repairing, altering, and enlarging school or other buildings; but this provision shall not be construed to compel the trustees of any ward to use or employ such workmen or materials for any purpose whatever.

37 N. Y. Supr.
458; 44 N. Y.
Supr. 58;
4 Abb. N.C. 317.
1851, ch. 386, §2,
Comp. 741.
City superin-
tendents and
assistants.

3. To appoint principals and vice-principals for the grammar, primary, and evening schools under its control, upon the written nomination of a majority of the trustees of the ward, stating that the nomination was agreed to at a meeting of the board of trustees, at which a majority of the whole number in office were present. In case the persons nominated for the positions of principal or vice-principal by the trustees, as hereinabove provided, are not appointed by the board of education within twenty days after their nomination, the said board of education shall, after the expiration of that time, have the sole power to select and appoint such principal or vice-principal as said board may, by a majority of the whole number in office, at a general meeting or a special meeting called for that purpose, determine.

1873, ch. 112, §8.
Comp. 739.
To appoint
principals, etc.,
upon nomina-
tion of trustees.

4. To discontinue any school whenever, owing to any nuisance or other circumstance in the immediate vicinity of any school, or to the small attendance of scholars therein, or other sufficient reason, it shall appear to the board of education necessary and proper. But before discontinuing any school, the said board shall give notice to the trustees of the ward of its intention to consider the propriety of such discontinuance, and in thirty days after such notice may proceed to investigate the matter, and if a majority of the school officers of the ward shall consent to the same, and if the said board shall determine by a vote of a majority of all the members thereof, that it is proper to close the same, it shall be the duty of said board to withhold all moneys which may have been apportioned or appropriated for the support of said school, and the said school shall not thereafter participate in any subsequent apportionment of the school moneys. So soon as the same shall take effect, the comptroller of the city shall be notified thereof by the said board, and the said school-house and site may thereupon be used or disposed of as a part of the general property of the city.

1851, ch. 386,
§27, as amended
1854, ch. 101, §2,
Comp. 738.
Discontinua-
tion of schools.

5. To draw from the moneys which shall be raised for the purposes of public education such sums as may be required for the purpose of defraying the necessary incidental expenses of the board, and such further sums as may be required for the

1851, ch. 386, §2,
Comp. 741.
Money for pub-
lic education.

payment of the salaries of such clerk and other officers as may be appointed by virtue of the authority vested in the board, and of such other expenses as may be necessarily incurred by the board in pursuance of the provisions of this chapter.

Examination of
schools.

6. To visit and examine the schools subject to the provisions of this chapter.

Rules of order,
etc.

7. To make rules of order and by-laws for the government of the board, its members and committees, and general regulations to secure proper economy and accountability in the expenditure of the school moneys.

Free academy,
and additional
institutions.

8. To organize an institution for females similar to the free academy, as the same existed in eighteen hundred and fifty-one. When so organized, all the provisions of this chapter relative to the free academy shall apply to each and every one of the said institutions now existing or hereafter established as fully, completely, and distinctly as they could or would if it was the only institution of the kind; to distinguish each existing and future institution by an appropriate title; and to purchase, erect, or lease sites and buildings for each and all of the said institutions, provided that no additional institution shall be authorized or organized by the board of education unless a majority of the whole number of members of the said board shall vote in favor thereof.

Hall of the
board.

9. To use and control the premises known as the hall of the board of education, at the corner of Grand and Elm streets; to direct the purposes for which the same may be occupied, and to make all the repairs, alterations, and additions in and to the same which the board may deem advisable; and to provide such additional sites and buildings as may be necessary for the purposes of this chapter, the title of which shall in all cases be vested in the mayor, aldermen, and commonality of the city of New York, but no such additional site or building shall be provided except with the consent, by vote, of three-fourths of all the members of said board.

1869, ch. 473, §3,
Comp. 760.
1871, ch. 574,
§100, subd. 2,
Comp. 757.

Personal
property.

10. To dispose of such personal property, used in the school or other buildings under the charge of the board, as the trustees or committees having the immediate charge thereof shall certify is no longer required for use therein, and all moneys realized by the sale of any such property shall be paid into the city treasury.

1851, ch. 386, §2,
as amended
1864, ch. 351, §13.
Comp. 741.
In what cases
school officers
to be removed.
3 Hun. 177; 17
Abb. 201.

11. To remove from office any school officer who shall have been directly or indirectly interested in the furnishing of any supplies or materials, or in the doing of any work or labor, or in the sale or leasing of any real estate, or in any proposal, agreement, or contract for any of these purposes, in any case in which the price or consideration is to be paid, in whole or in

part, or directly or indirectly, out of any school moneys, or who shall have received, from any source whatever, any commission, or other compensation in connection with any of the matters aforesaid; and any school officer who shall violate the preceding provisions of this section shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall be punished by a fine not exceeding one thousand dollars, and imprisonment in the city prison not exceeding one year, and shall also be ineligible to any school office. The board shall also have power to remove from office any school officer who shall have been guilty of immoral or disgraceful conduct in any matter connected with his official duties, or which tends to discredit his office or the school system. If one or more school officers or tax-payers of the city of New York shall present a written charge to the board of education, accusing any school officer of a violation of, or liability to, any of the provisions of this section, it shall be the duty of the said board to cause the same to be fully investigated. All testimony taken upon any such investigation shall be under oath; and the court of common pleas shall have power, upon the application of the board of education, to compel any witness who may be summoned to appear and testify before the said board or any committee thereof.

When guilty of misdemeanor.

Board may remove for bad conduct.

Shall make investigation.

Common pleas may compel witness to testify.

12. Whenever it shall appear to the board of education, that the trustees of any ward are neglecting any school under their control to the detriment of the pupils in said school, to take charge of such school, to manage the same, to furnish all needful supplies and to appoint the proper teachers therefor, until the first day of January next succeeding. But the said board of education shall not take charge of any such school on account of any alleged neglect until the board of trustees of the ward in which said school is situated shall first have been notified of the neglect charged, and have an opportunity to be heard before said board or its committees on the subject.

1866, ch. 323, §2.
Comp. 756.
Proceedings on neglect of trustees.

13. With the consent of a majority of the trustees for the ward, or without such consent, by a vote of two-thirds of the board of education, to discontinue any grammar, primary, evening, or colored school; and the said board may also authorize the establishment of a new school, upon the written application of a majority of the trustees for the ward. It shall be the duty of the board of education to decide finally upon every such application within thirty-five days after the same is presented to it; and if the said board shall omit to do so, or shall deny the application, and a majority of the inspectors for the district shall certify that there is probable cause for granting the application, the trustees may appeal to the State superintendent of public instruction, whose decision in the matter shall be binding upon all

1851, ch. 386, §28, as amended
1864, ch. 351, §17, Comp. 731.
When school may be discontinued.
New school established.
When board to decide on application for new school.
When appeal may be had to State superintendent.

the parties, and if adverse to the application, the same shall not be renewed during the term of one year next thereafter.

General
privileges.

14. And for the purposes of this chapter the said board shall possess the powers and privileges of a corporation.

§ 1028. It shall be the duty of the board of education:

1851, ch. 386, §3.
as amended
1854, ch. 101,
Comp. 742.
School moneys.

1. To apportion all the school moneys which shall have been raised for the purposes of meeting the current annual expenses of public instruction, to the schools entitled to participate therein by the provisions of this chapter.

Copy appor-
tionment to be
filed.

2. To file with the chamberlain of said city, on or before the first Monday of April in each year, a copy of their apportionment, stating the amount apportioned to the schools under the charge of the board of education, and to the trustees, managers, and directors of the several schools enumerated in this chapter:

As amended
1866, ch. 823.
Comp. 744.
Evening
schools.

3. To provide evening schools for those whose ages or avocations are such as to prevent their attending the day schools established by law, in such of the ward school-houses or other buildings used for school purposes, and in such other places in said city as they may from time to time deem expedient, and also to provide schools for colored children, and also a normal school or school for those desirous to become teachers, and for teachers, which shall be attended by such of the teachers in common schools as the board of education, by general regulations, shall direct, under penalty of forfeiture of their situations as teachers by omitting to attend, which forfeiture shall be declared by the board of education; and to appoint teachers for the normal and colored schools, and also upon the nomination of the trustees of the respective wards to appoint teachers for the evening schools, and said board shall furnish all needful supplies for the evening, normal, and colored schools.

Schools for col-
ored children,
etc.

Supplies.

4. To furnish all necessary supplies, or make regulations for furnishing such supplies for the several schools under their care, but when such supplies are furnished by the board of education they shall be obtained by contract, proposals for which shall be advertised for the period of at least two weeks.

As amended
1854, chs. 101,
267, §1.
Report to su-
perintendent
common
schools.

5. To make and transmit, between the fifteenth day of January and the first day of February in each year, to the State superintendent of public instruction, and to the common council of the city of New York, a report, in writing, bearing date on the thirty-first day of December next preceding, stating the whole number of schools within their jurisdiction, specially designating the schools for colored children; the schools or societies from which reports shall have been made to the board of education, within the time limited for that purpose; the length of time such schools shall have been kept open; the amount of public money apportioned or appropriated to said school or so-

ciety; the number taught in each school; the whole amount of money drawn from the city chamberlain for the purposes of public education during the year ending at the date of their report, distinguishing the amount received from the general fund of the State, and from all other and what sources; the manner in which such moneys shall have been expended; and such other information as the State superintendent of public instruction may, from time to time, require in relation to common school education in the city and county of New York; and the report which the board of education is hereby required to make shall be held and taken to be a full compliance with every law requiring a report from the said board, or any officer of the city and county of New York, except the city superintendent, relative to the schools in the said city, or any matters connected therewith. If the board of education shall neglect to make such annual report within the time limited, the share of school moneys apportioned the city and county of New York may, in the discretion of the State superintendent of public education, be withheld until a suitable report shall have been rendered.

Penalty for not making report.

6. By general rules and regulations, to provide the proper classification of studies, scholars, and salaries in such manner that, as near as practicable, the system of instruction pursued in the common schools, and the salaries paid to teachers shall be uniform throughout the city.

1851, ch. 386, §13,
as amended
1854, ch. 101,
Comp. 742.

§ 1029. The title to all school property, real and personal, purchased with any money derived from the distribution or apportionment of the school moneys, or raised by taxation in the city of New York, shall be vested in the mayor, aldermen and commonalty of said city, but shall be under the care and control of the board of education, for the purpose of public education, and all suits in relation to the same shall be brought in the name of said board; and no contract or contracts shall be made by the school officers of any ward for the purchase of any site without the consent of the board of education, or for the erection or fitting up or repairing of any building, when such repairs shall exceed in amount the sum of two hundred dollars, as authorized in this chapter, until a statement, in writing, of the amount required for that purpose shall have been presented to the board of education by said school officers, and, together with a copy of the working drawings, plans, and specifications of the work to be done, pursuant to the provisions of this chapter, shall have been duly filed and approved of as herein required, and an appropriation shall have been made by the board of education therefor.

Classification
of studies, etc.
1851, ch. 386, §23,
as amended
1853, ch. 301, §14.
Comp. 752.

Amendment as
to title of prop-
erty.

§ 1030. All the trusts and estates held by or vested in the Public School Society of the city of New York, as organized and

1854, ch. 267, §2.
Comp. 758.

Trusts and estates of Public School Society, 1853, ch. 301.

existing previous to its several acts in compliance with the provisions of act entitled "an act relative to common schools in the city of New York," passed the fourth day of June, one thousand eight hundred and fifty-three, which have not been conveyed by the said society, and all the rights, powers, and duties of the said society which yet remain therein, shall continue and be vested in the board of education of the city of New York, which board is and shall be held to be the lawful successors of the said society in the execution of every trust.

1851, ch. 386, §8, Comp. 745.
Powers and duties of commissioners.
Meetings of board.

§ 1031. It shall be the duty of the commissioners of common schools:

1. To attend all the meetings of the board of education; and if any commissioner shall refuse or neglect to attend any three successive stated meetings of the board, after having been personally notified to attend, and if no satisfactory cause of his non-attendance be shown, the board may declare his office vacant.

Reports.

2. To transmit to the board of education all reports made to them by the trustees and inspectors of their respective wards.

Examination of schools.

3. To visit and examine all the schools entitled to participate in the apportionment.

1873, ch. 112, §5, Comp. 738.
Existing laws, how construed.

§ 1032. Whenever in any laws the words board of education or commissioners of common schools shall occur, said words shall be taken to mean and comprehend respectively the board of education and commissioners of common schools as herein provided for.

1851, ch. 386, §§5, 37, Comp. 745, 755.
Clerk of board.
Clerk of board may administer oaths.

§ 1033. The clerk of the board of education shall have charge of the rooms, books, papers, and documents of the board, and shall, in addition to his duties as secretary of the board, perform such other clerical duties as may be required by its members or committees. He is authorized to administer oaths and take affidavits in all matters appertaining to the schools in the city and county of New York, and for that purpose shall possess all the powers of a commissioner of deeds, but shall not be entitled to any of the fees or emoluments thereof.

1851, ch. 386, §9, as amended 1864, ch. 351, §14, Comp. 745.
Duty of inspectors as to expenses of schools.
Attendance and conduct of teachers and pupils; condition of premises.

§ 1034. It shall be the duty of the inspectors of common schools, or a majority of them, in their respective districts, to examine in respect to every expense certified as correct by a majority of the trustees of any ward in the district, and to audit every such expense which may be just and reasonable; and no expense shall be paid unless audited in this manner. They shall also examine, at least once in every quarter, all the schools in the district, in respect to the punctual and regular attendance of the pupils and teachers; the number, fidelity, and competency of the teachers; the studies, progress, order, and discipline of the pupils; the cleanliness, safety, warming, ventilation,

and comfort of the school premises, and whether or not the provisions of the school laws, in respect to the teaching of sectarian doctrines, or the use of sectarian books, have been violated, and call the attention of the trustees, without delay, to every matter requiring official action. They shall also, on or before the thirty-first day of December in each year, make a written report to the board of education and to the board of trustees, in respect to the condition, efficiency, and wants of the district in respect to schools and school premises.

Sectarianism in schools.

To whom and when inspectors to make report.

§ 1035. It shall be the duty of the trustees for each ward, and they shall have the power :

1851, ch. 396, §10, Comp. 746.

Duty of trustees. Property.

1. To have the safe keeping of all the premises and other property used for or belonging to the ward schools and the ward primaries in their respective wards.

2. To appoint, by a majority vote, at a meeting of the board of trustees, teachers, other than principals and vice principals, and also janitors.

1864, ch. 351, §12, Comp. 760.

3. Under such general rules and regulations, and subject to such limitations as the board of education may prescribe to conduct and manage the said schools ; to furnish all needful supplies therefor, and to make all needful repairs, alterations, and additions in and to the school premises.

Supplies. As amended 1864, ch. 351, §19.

4. To procure, as may be necessary, blank books, in one of which a statement of the amounts of all moneys received and paid by the trustees, or otherwise, for or on account of each of the schools conducted by them, and of all movable property belonging to each school, shall be entered at large and signed by such trustees ; and in one book minutes of their meetings shall be kept ; and in other books the principal teacher of each school and department shall enter the names, ages, and residences of the scholars attending the school, the name of a parent or guardian of each scholar, and the days on which the scholars shall have respectively attended, and the aggregate attendance of each scholar during the year ; also the days on which each school shall have been visited by the city and assistant superintendents of schools, and the school officers of the ward, and the members of the board of education, or any of them, which entries shall be verified by the oath or affirmation of the principal teacher in such school or department. The said books shall be preserved by the trustees as the property of the school, and shall be delivered to their successors.

Books of account and books of attendance.

5. To make, at least five days before the first day of January in every year, or on such other day as may be designated by the board of education, in the case of a school kept open after the twenty-fifth day of December, and transmit to the board of education, a report in writing, dated the thirty-first day of Decem-

Report as to number of schools.

ber, which shall be signed and certified by a majority of the trustees, and which report shall state the whole number of schools within their jurisdiction, especially designating the schools for colored children, the length of time each school shall have been kept open, the whole number of scholars over four and under twenty-one years of age who shall have been taught free of expense to such scholars in their schools, during the year ending with the date of the report, which number shall be ascertained by adding to the number of children on register, at the commencement of each year, the number admitted during that year, which shall be considered the total for that year; the average number that has actually attended such schools during the year, to be ascertained by the teachers keeping an exact account of the number of scholars present every school time or half day, which, being added together, and divided by four hundred and sixty, or if less than a year, by the number of school sessions, shall be considered the average of attending scholars, which average shall be sworn or affirmed to by the principal teacher of the school; a detailed statement of the amount of moneys received or paid for or on account of their respective schools during the year, from or by the chamberlain of the city, and of the purposes for and the manner in which the same shall have been expended; and a particular account of the state of the schools, and of the property and affairs of each school under their care; and the titles of all books used, with such other information as the board of education shall require; and for the purposes of this section, each department shall, whenever practicable, be considered as a separate school.

Personal
property.

6. To hold, as a corporation, all personal property vested in or transferred to them for school purposes in their respective wards.

Account to be
rendered.

7. To render, at the expiration of their respective terms of office, to their successors, a just and true account in writing of all moneys received by them for school purposes, and of the manner in which the same shall have been expended, and to pay any balance which may remain in their hands to their successors.

As amended
1864, ch. 191.
Regular
meetings.

8. To meet statedly at times to be by them appointed, and to declare vacant, by a vote of a majority of the trustees of the ward, the seat of any person elected or appointed as a trustee, who shall refuse or neglect, without satisfactory cause shown by him to the said trustees, to attend any three successive stated meetings of the trustees, after having been previously notified to attend.

1831, ch. 386, §20,
Comp. 753.

§ 1036. All expenses incurred for the support of common schools in the respective wards shall be certified by the trustees of common schools in such wards, or a majority of them, and

delivered to the inspectors of said ward ; and it shall be the duty of said inspectors to examine and audit the same, and upon said inspectors being satisfied of their correctness, to certify the same to the board of education. All bills audited and paid shall be filed with the board of education.

Expenses, how audited. See 1864, ch. 351, §12.

§ 1037. Upon a decision favorable to the establishment of a school or schools in any of the wards of the said city, it shall be lawful for the school officers of said ward to proceed to organize one or more schools, such as may be authorized by the board of education, and to procure a school-house, by purchasing or hiring the same, or by procuring a site and erecting a building thereon, according to plans and specifications and contracts which shall have been duly filed with and approved by the board of education, the erection of which said building, and the fitting up thereof, and the fitting up of any hired building, shall be done by contract, proposals for which shall be advertised for two weeks previous to deciding upon estimates thereon, unless such fitting up shall not exceed the sum of two hundred dollars.

1851, ch. 336, §24, Comp. 732. How organized

§ 1038. The board of trustees for the ward, by the vote of the majority of the whole number of trustees in office, may remove teachers employed therein, other than principals and vice-principals, and may also remove janitors, provided the removal is approved in writing by a majority of the inspectors for the district, and provided further, that any teacher so removed shall have a right to appeal to the board of education, under such rules as it may prescribe, and the said board shall have power, after hearing the answer of the trustees, to reinstate the teacher.

1864, ch. 351, §12. Comp. 700.

§ 1039. The city superintendent shall be subject to such general rules and regulations as the State superintendent of public instruction may prescribe, and appeals from his acts and decisions may be made to the superintendent in the same manner and with like effect as in cases now provided by law ; and he shall make annually to the State superintendent of public instruction, at such times as shall be appointed by him, a report in writing, containing the whole number of schools in the city and county distinguishing the schools from which the necessary reports have been made to the board of education by the commissioners, inspectors, and trustees of common schools, and containing a certified copy of the reports of the board of education to the clerk of the city and county, with such additional information as the State superintendent of public instruction may require.

Right of appeal 1851, ch. 336, §12, as amended 1864, ch. 267, §1, Comp. 749. City superintendent to make report.

§ 1040. The city and assistant superintendents of schools shall take and subscribe, before the clerk of the board of education, the oath of office prescribed by the constitution of this State ; shall each hold office for the term of two years, and until his successor is appointed, subject to removal by the board, on complaint, for

1851, ch. 336, §11, Comp. 747. City superintendent's salary and term of office.

cause stated ; shall respectively receive such compensation as the board of education may designate, which shall not be changed during the term of office of any incumbent ; and shall be subject to such rules and regulations as the board of education may establish. It shall be specially the duty of the city superintendent :

Visitation of
schools.

1. To visit every school under the charge of the board of education as often as once in each year ; to inquire into all matters relating to the government, course of instruction, books, studies, discipline, and conduct of such schools, and the condition of the school-houses, and of the schools generally, and to advise and to counsel with the said trustees in relation to their duties, the proper studies, discipline, and conduct of the schools, the course of instruction to be pursued, and the books of elementary instruction to be used therein ; and to examine, ascertain, and report to the board of education whether the provisions of the act in relation to religious sectarian teaching and books have been violated in any of the schools of the different wards of the city ; and to make a monthly report to the board of education, stating which of the schools have been visited by him, and adding such comments, in respect to the matters above specified, as he may consider necessary and advisable ; and to transmit to the respective boards of ward trustees copies of so much of such reports as relates to schools under their management.

As amended
1854, ch. 101.

Examination
of teachers.
As amended
1864, ch. 351, §16.

2. Under such general rules and regulations as the board of education may establish, to examine into the qualifications of persons proposed as teachers in any of the schools under the charge of the board. Such examination shall be conducted by the city superintendent of schools, or such one of his assistants as he may designate, in the presence of at least two inspectors of common schools, who shall be designated for the purpose by the by-laws of the board of education. Licenses shall be granted to those persons found upon such examination to be entitled thereto, which shall be in the form prescribed by the said by-laws, shall be signed by the city superintendent, and by at least two inspectors designated for the purpose, who shall certify that they were present at the examination, and concur in granting the license. The license of any teacher may be revoked for any cause affecting the morality or competency of the teacher, by the written certificate of the city superintendent, and the written concurrence of two of the inspectors for the district in which the teacher is employed ; but no such action shall be taken until at least ten days' previous notice has been allowed ; nor shall it take effect until such certificate of revocation has been filed in the office of the clerk of the board of education, and a copy served upon the teacher. It shall be the duty of the city superinten-

Licenses.

Revocation of
license.

dent to re-examine any teacher upon the written request of any two inspectors of the district, or three trustees of the ward in which the teacher is employed. Any teacher whose license has been revoked as aforesaid, may appeal to the State superintendent of public instruction, within ten days after service of a copy of a certificate of revocation, by the service of a written notice of appeal upon the city superintendent, and in case such appeal is taken, the teacher shall not be disqualified until the revocation is confirmed by the State superintendent. The city superintendent, in his annual report to the board of education, shall include a list of the licences granted and revoked by him.

Re-examination.

Appeal to State superintendent.

3. Generally, by all the means in his power, under the regulations of the board of education in respect thereto, to promote sound education, elevate the character and qualifications of teachers, improve the means of instruction, and advance the interests of the schools committed to his charge.

General duties.
As amended
1864, ch. 101.

§ 1041. The superintendent of school buildings shall take and subscribe, before the clerk of the board of education, the oath prescribed by the constitution of this State, and give such security for the faithful performance of the duties of his office as the board of education may direct; and the department under his charge shall be subject to such rules and regulations as the said board may establish, one of which shall prohibit the performance by him of any work on other account similar to that performed under the regulations so established.

1861, ch. 386, §30,
as amended
1864, ch. 101,
Comp. 755.
Superintendent of school buildings.

§ 1042. Any teacher may be removed by the board of education upon the recommendation of the city superintendent, or of a majority of the trustees for the ward, or of a majority of the inspectors for the district, but only by a vote of three-fourths of all the members of said board.

1864, ch. 351, §12.
Comp. 760.
1871, ch. 574,
§100, subd. 2,
Comp. 756.
1869, ch. 437, §3,
Comp. 700.
How removed.
3 Hun, 177.

§ 1043. The following shall be substantially the form of oath or affirmation to be made by the teacher:

1861, ch. 386, §33,
as amended,
1864, ch. 267, §1,
Comp. 754.
Form of oath.

"A. B., of the city of New York, teacher of No. department, being duly sworn or affirmed, declares and says, that to the best of (his or her) knowledge and belief, the average number of children, actual residents of the city and county of New York, at the time of attending said school, between the ages of four and twenty-one years, who attended said school or department, each school-time or half day from the day of to the first day of January, was Said average having been obtained by adding together the number of scholars present each school-time or half day and dividing the total by four hundred and sixty."

§ 1044. No compensation shall be allowed to the commissioners, inspectors, or trustees of common schools for any services performed by them, but the commissioners and inspectors shall

1861, ch. 386, §30,
Comp. 753.
Commissioners to serve without pay.

receive their actual and reasonable expenses while attending to the duties of their office, to be audited and allowed by the board of education.

Id. §38,
Comp. 755.
School officers
not to be
interested in
contracts.
Teachers not
eligible as com-
missioners or
inspectors.

§ 1045. No school officer shall be interested in any contract, payments under which are to be made, in whole or in part, out of any moneys derived from the school fund or raised by taxation for the support of common schools. No teacher employed in any of the schools entitled to participate in the apportionment of the school moneys shall be eligible to the office of commissioner, inspector, or trustee of common schools.

Id. §31,
Comp. 753.
Penalty for
neglect of duty.

§ 1046. Every school officer who shall refuse or neglect to render an account, or to pay over any balance in his hands, at the expiration of his term of office, shall for each offense forfeit the sum of fifty dollars, which sum, together with said unpaid balance, shall be sued for and collected by the board of education, who shall prosecute without delay for the recovery of such forfeiture, together with the unpaid balance; and in case of the death of such school officer, suit may be brought against his representatives, and all moneys recovered, after deducting expenses, shall be placed at the disposal of the board of education.

d. §32,
as amended
1854, ch. 101,
Comp. 754.
Penalty for
false reports.

§ 1047. Every person in the employ of the board of education, and every school officer, and every officer or teacher of a school or society, who shall willfully sign a false report to the board of education, shall, for each offense, forfeit the sum of twenty-five dollars, and shall be deemed guilty of misdemeanor; and every such person or officer who shall willfully misapply any of the public funds committed to his care, shall be deemed guilty of embezzlement.

1851, ch. 386, §31,
Comp. 754.
Costs of suit.

§ 1048. In any suit which shall hereafter be commenced against the commissioners or trustees of common schools for any act performed by virtue of, or under color of their offices, or for any refusal or omission to perform any duty enjoined by law, and which might have been the subject of an appeal to the superintendent, no costs shall be allowed to the plaintiff in cases where the court shall certify that it appeared, on the trial of the cause, that the defendant acted in good faith. But this provision shall not extend to suits for penalties, nor to suits or proceedings to enforce the decisions of the State superintendent of public instruction.

1864, ch. 351, §8,
Comp. 759.
Officers to be
residents of the
districts for
which they are
chosen.

§ 1049. Every school officer shall, at the time of his election or appointment, be a resident of the district or ward for which he is appointed, and every trustee removing from the ward for which he is appointed, and every school officer removing from the city, shall thereby vacate his office.

Id. §10.

§ 1050. Every person appointed to a school office in said city shall, before entering on the duties of his office, and within fif-

teen days from the time of being notified of his appointment to fill a vacancy, take and subscribe, before the clerk of the board of education, the oath of office prescribed by the constitution of this State, and the school office to which any person who shall omit to take the said oath within the time and in the manner above prescribed, may have been appointed, shall be vacant at and from the expiration of the said fifteen days.

School officers to take oath, and when.

Effect of omission.

§ 1051. All children between the ages of five and twenty-one years, residing in the city and county, shall be entitled to attend any of the common schools therein; and the parents, guardians, or other persons having the custody or care of such children shall not be liable to any tax, assessment, or imposition for the tuition of any children, other than is hereinbefore provided.

1851, ch. 386, § 35, as amended 1878, ch. 106, § 1, Comp. 754. Children entitled to attend school.

§ 1052. All schools which have been organized under the act entitled "an act to extend to the city and county of New York the provision of the general act in relation to common schools," passed April eleventh, eighteen hundred and forty-two, and the acts amending the same, or organized or adopted under this chapter, shall be called common schools, "ward schools," or ward primaries, and each class shall be numbered consecutively according to the time of their organization or adoption, and all such schools shall be under the supervision and government of the commissioners, inspectors, and trustees of the ward in which they are located.

1851, ch. 386, § 6, Comp. 745. Ward schools to be numbered. 1842, ch. 150.

§ 1053. The schools in the several wards shall be classified as grammar, primary, and evening schools.

1864, ch. 351, § 12, Comp. 759. Schools classified.

§ 1054. Whenever the clerk of the city and county shall receive notice from the State superintendent of public instruction of the amount of moneys apportioned to the county of New York for the support and encouragement of common schools therein, he shall immediately lay the same before the board of aldermen of said county; and the chamberlain of the said city shall apply for and receive the school moneys apportioned to the said county as soon as the same become payable, and place the same in the city treasury.

1851, ch. 386, § 14, as amended 1854, chs. 101, 267 § 1, Comp. 749.

Public school money.

Title 2.—The College of the City of New York.

§ 1055. The College of the city of New York, formerly known as the Free Academy in the city of New York, shall continue to be a separate and distinct organization and body corporate, and as such shall have the powers and privileges of a college, pursuant to the revised statutes of this State, and be subject to the provisions of the said statutes relative to colleges, and to the

1866, ch. 264, § 1, Comp. 761. 23 Hun, 568. College of city of New York to be distinct organization.

visitation of the regents of the university, in like manner with the other colleges of the State.

Id. §1.

Who to be trustees of college.

1872, ch. 631, §2, Comp. 762.

1866, ch. 264, §3, Comp. 761.

§ 1056. The members of the said board of education, together with the president of the college, shall be ex-officio the trustees of the said college, and shall have and possess the powers conferred upon, and be subject to the duties required of the trustees of colleges by the revised statutes. The president of the college shall be a member of the executive committee of the said trustees for its care, government, and management.

§ 1057. All acts of the legislature which were in force on March thirtieth, eighteen hundred and sixty-six, in regard to the said Free Academy, and to its control, management, support, and affairs, and which are not inconsistent with the provisions of this act, and not since modified or repealed, are hereby declared to be applicable to the said college.

1851, ch. 386, §36, Comp. 754.
College to share in literature fund.

§ 1058. The College of the city of New York shall be entitled to participate in the distribution of the income of the literature and other funds in the same manner and upon the same conditions as the other colleges of the State, and the regents of the university of the State of New York shall pay annually to the board of education of the city and county of New York, the distributive share of the said funds to which the said College of the city of New York shall by law be entitled, and which shall be applied and expended for library books for the said college.

1866, ch. 637, §1, as amended 1872, ch. 471, Comp. 761.
Trustees to report to board of supervisors.

§ 1059. The trustees of the College of the city of New York shall annually, on or before the fifteenth day of November, report to the board of estimate and apportionment such sum, not exceeding one hundred and fifty thousand dollars in any one year, as they may require for the payment of the salaries of the professors and officers of the said college, for obtaining and furnishing scientific apparatus, books for the students, and all other necessary supplies therefor, and for repairing and altering the college buildings, and for the support, maintenance, and general expenses of said college.

1851, ch. 386, §3, as amended 1854, ch. 267, §1, Comp. 743.

§ 1060. The board of education shall continue to furnish, through the College of the city of New York, the benefit of education gratuitously, to persons who have been pupils in the common schools of the said city and county, for a period of time to be regulated by the board of trustees not less than one year. And the trustees, upon the recommendation of the faculty of the said college, may grant the usual degrees and diplomas in the arts to such persons as shall have completed a full course of study in the said college.

1851, ch. 386, §3, subd. 7, as amended 1854, ch. 101, Comp. 743.

§ 1061. The trustees of the College of the city of New York shall make and transmit annually, on or before the first day of February in each year, to the board of aldermen, and also to the

secretary of the board of regents of the university of the State of New York, a report, dated on the thirty-first day of December next preceding, which report shall state the names and ages of all the pupils instructed in such college during the preceding year, and the time that each was so instructed, specifying which of them have completed a full course of study therein, and which have received degrees, medals, and other special testimonials; a particular statement of the studies pursued by each pupil since the last preceding report, together with the books such student shall have studied, in whole or in part, and if in part, what portion; an account or estimate of the library, philosophical and chemical apparatus, and mathematical or other scientific instruments belonging to such college; the names of the instructors employed in said college, and the compensation paid to each; what amount of moneys the board of education received during the year for the purposes of such college, and from what sources, specifying how much from each, and the particular manner, and the specific purposes for which such moneys have been expended; and such other information in relation to education in the said college, and the measures of the board of trustees in the management thereof, as the board of aldermen, or the regents of the university of the State of New York may, from time to time, require.

Report relating
to college.

Title 3.—Miscellaneous.

§ 1062. No school shall be entitled to or receive any portion of the school moneys in which the religious doctrines or tenets of any particular christian or other religious sect shall be taught, inculcated, or practiced, or in which any book or books, containing compositions favorable or prejudicial to the particular doctrines or tenets of any particular christian or other religious sect shall be used, or which shall teach the doctrines or tenets of any other religious sect, or which shall refuse to permit the visits and examinations provided for in this chapter. But nothing herein contained shall authorize the board of education to exclude the Holy Scriptures, without note or comment, or any selections therefrom, from any of the schools provided for by this chapter; but it shall not be competent for the said board of education to decide what version, if any, of the Holy Scriptures, without note or comment, shall be used in any of the schools; provided that nothing herein contained shall be so construed as to violate the rights of conscience as secured by the constitution of this State and of the United States.

1851, ch. 386, §18,
Comp. 750.
Religious doc-
trines and
books.

§ 1063. The school established and maintained by the Five Points house of industry in the city of New York, the school

1855, ch. 405, §1,
Comp. 768.

Distribution of
common school
fund.
1862, ch. 258, §1,
Comp. 768.

established and maintained by the ladies' home missionary society of the Methodist Episcopal church, at the institution in Park street, near the place usually called the Five Points, in the said city, and the industrial schools established and maintained under the charge of the Children's Aid Society, in the city of New York, shall participate in the distribution of the common school fund, in the same manner and degree as the common schools in the city and county of New York, and shall be subject to the same regulations and restrictions as are now by law imposed on the common schools of New York.

1851, ch. 336, §30,
as amended
1854, ch. 101,
Comp. 750.

§ 1064. The board of education shall require from the executive committees conducting schools by appointment of the board, and from the trustees, managers, or directors of the corporate schools entitled to participate in the apportionment of school moneys, a report in all respects similar to that required from the trustees of each ward by section ten hundred and thirty-five of this act. And in making the apportionment among the several schools, no share shall be allotted to any school or society from which no sufficient annual report shall have been received for the year ending on the last day of December immediately preceding the apportionment.

Id. § 21.
Accidental
omission to
report not to
forfeit money.

§ 1065. Whenever an apportionment of the public money shall not be made to any school, in consequence of any accidental omission to make any report required by law, or to comply with any other regulation or provision of law, the board of education may, in its discretion, direct an apportionment to be made to such school, according to the equitable circumstances of the case, to be paid out of the public money on hand, or if the same shall have been distributed, out of the public money to be received in a succeeding year.

1851, ch. 336, §22.
1851, ch. 332, §30,
Comp. 1746.
1853, ch. 106,
§24, Comp. 1773.
as amended
1853, ch. 301, §13,
Comp. 751.

§ 1066. The New York Orphan Asylum school, the Roman Catholic Orphan Asylum school, the schools of the two half-orphan asylums, the school of the Society for the Reformation of Juvenile Delinquents in the city of New York, the school for the Leake and Watt's Orphan's House, the school connected with the alms-house of the said city, the school of the Association for the benefit of Colored Orphans, the schools of the American Female Guardian Society, the schools established and maintained by the New York Juvenile Asylum, by the New York Infant Asylum, by the Nursery and Child's Hospital, including the country branch thereof, the schools organized under the act entitled "an act to extend to the city and county of New York the provisions of the general act in relation to common schools, passed April eleven, eighteen hundred and forty-two," or an act to amend the same, passed April eighteen, eighteen hundred and forty-three, or an act entitled "an act

more effectually to provide for common school education in the city and county of New York, passed May seventh, eighteen hundred and forty-four," or any of the acts amending the same, and including such normal schools for the education of teachers as the board of education may organize, and such schools as may be organized under the provisions of this chapter, shall be subject to the general supervision of the board of education, and shall be entitled to participate in the apportionment of the school moneys as provided for in this chapter, but they shall be under the immediate direction of their respective trustees, managers, and directors, as herein provided.

Schools
entitled to
money.

§ 1067. The trustees, managers, and directors of any of the corporate schools entitled to participate in the apportionment of the school moneys, may at any time convey their school-houses and sites to the corporation of the city of New York, and transfer any of their schools to the board of education, on the terms and in the manner to be agreed upon and prescribed by the board of education, so as either to merge the said schools in the ward schools or adopt them as ward-schools; and the same shall then be ward schools, subject to all the rules, duties, and liabilities, and enjoy the same rights as if they had been originally established as ward schools.

1851, ch. 386, § 26,
as amended
1863, ch. 301, § 15.
Comp. 752.

Corporate
schools may
transfer their
property to
city.

§ 1068. The board of education are authorized and directed to provide and maintain a nautical school in said city, for the education and training of pupils in the science and practice of navigation; to furnish accommodations for said school, and make all needful rules and regulations therefor, and for the number and compensation of instructors and others employed therein; to prescribe the government and discipline thereof, and the terms and conditions upon which pupils shall be received and instructed therein, and discharged therefrom, and provide in all things for the good management of said nautical school. And the said board shall have power to purchase the books, apparatus, stationery, and other things necessary or expedient to enable said school to be properly and successfully conducted, and may cause the said school or the pupils or part of the pupils thereof to go on board vessels in the harbor of New York, and take cruises in or from said harbor for the purpose of obtaining a practical knowledge in navigation and of the duties of mariners. And the said board are hereby authorized to apply to the United States government for the requisite use of vessels and supplies for the purposes above mentioned.

1873, ch. 28, § 1.
Comp. 764.
Board of educa-
tion to establish
nautical school.

Books, etc.

§ 1069. The board of education is hereby authorized and required to distribute to the managers of the New York Institution for the Blind a ratable proportion of the said school fund to every blind pupil in said institution, without regard to age.

1889, ch. 300,
§ 4, Comp. 1786.
Part of school
fund to be
given to
managers.

1873, ch. 28, §1.
Comp. 764.
Executive
committee.

§ 1070. The said board of education shall appoint annually at least three of their number, who shall, subject to the control, supervision, and approbation of the board, constitute an executive committee, for the care, government, and management of such nautical school, under rules and regulations so prescribed and whose duty it shall be, among other things, to recommend the rules and regulations which they deem necessary and proper for such school.

§ 1071. After the establishment and organization of the said school, the expenses thereof, and of carrying out the provisions of this chapter, shall be defrayed from the moneys raised by law for the support of common schools in the city and county of New York.

Id. §4.
Committee of
chamber of
commerce.

§ 1072. The chamber of commerce of New York is authorized to provide for and appoint a committee of its members to serve as a council of the nautical school, whose duty it shall be, as far as may be, to advise and co-operate with the board of education in the establishment and management of such school, and from time to time to visit and examine the same, and to communicate in respect thereof with the board of education or such executive committee thereof, and to make reports to the chamber of commerce which may transmit to the State superintendent of public instruction such reports or any thereof, or an abstract of the same, with such recommendations as may be deemed advisable.

Reports.

CHAPTER XVIII.

THE COURTS AND JUDICIAL PROCEEDINGS.

Title 1.—Provisions applicable to Courts generally.

1831, ch. 77, §1.
Comp. 1266.
City hall.

§ 1073. The term "city hall of the city of New York," when used in any law of this State, is hereby declared to include, for all legal purposes, all buildings which shall be designated by the common council of the said city for the use of courts or public offices within that part of the said city bounded by Chambers street, Broadway, Park row, Chatham street and Tryon row; but rooms or premises procured or hired in accordance with law for the use of any of the courts authorized by law to be held in and for the city and county of New York, or the first judicial

1861, ch. 42, §1.
Comp. 1266.
Court rooms.

district of the State of New York, shall be deemed a part of the city hall of the city of New York for the purpose of holding a court therein.

§ 1074. The mayor, or, in case of his absence or other disability, the recorder of the city of New York, may, by proclamation, direct that the next ensuing term of any court, other than the court of appeals, appointed to be held in that city, shall be held in any building within the city of New York, other than the building where the same is regularly to be held, if, in his opinion, war, pestilence, or other public calamity, or the danger thereof, or the destruction or injury of the building, or the want of suitable accommodation, renders it necessary that some other place should be selected. The proclamation must be published in two or more daily newspapers, published in the city of New York.

Co. Civ. Proc.
§42, Comp. 2083.
Places for
holding court.

§ 1075. The first judicial district of the State shall consist of the city of New York.

1876, ch. 24, §1.
Comp. 1265.

§ 1076. In said city a special proceeding instituted before a judge of a court of record, or a proceeding commenced before a judge of the court, out of court, in an action or special proceeding pending in a court of record, may be continued, from time to time, before one or more other judges of the same court, with like effect as if it had been instituted or commenced before the judge who last hears the same.

Co. Civ. Proc.
§26, Comp. 1269.
In New York
one judge may
continue pro-
ceedings com-
menced before
another.

§ 1077. A person shall not ask or receive, directly or indirectly, compensation for appearing as attorney in a court, or make it a business to practice as an attorney in a court in said city, unless he has been regularly admitted to practice as an attorney and counsellor in the courts of record of the State.

Co. Civ. Proc.
§63, Comp. 2084.
Attorneys.

§ 1078. A person who violates the last section is guilty of a misdemeanor, and shall be punished by imprisonment in the county jail, not exceeding one month, or by a fine of not less than one hundred dollars, or more than two hundred and fifty dollars, or by both such fine and imprisonment. A judge or justice who knowingly permits to practice in his court a person who has not been regularly admitted to practice in the courts of record of the State, is guilty of a misdemeanor, and shall be punished as prescribed in this section. But this and the last section do not apply to a case where a person appears in a cause to which he is a party.

Id. §64.
Penalty.

§ 1079. No person holding the office of clerk, deputy clerk, special deputy clerk, or assistant in the clerk's office, of a court of record in said city, shall be appointed, by any court or judge, a referee, receiver, or commissioner, except by the written consent of all the parties to the action or special proceeding, other than parties in default for failure to appear or to plead.

Co. Civ. Proc.
§90, Comp. 1269.
Clerks, etc., not
to be appointed
referees, etc.

Co. Civ. Proc.
§431, Comp. 2036.
Summons,
service of.

§ 1080. Personal service of the summons in an action against the mayor, aldermen, and commonalty of the city of New York, must be made by delivering a copy thereof, within the State, to the mayor, comptroller, or counsel to the corporation.

Co. Civ. Proc.
§801, Comp. 2037.
Service of
papers.

§ 1081. Where a paper is served or a return is made through the post-office in said city, the deposit of the package in a branch post-office has the same effect as a deposit in the general or principal post-office of that city.

Co. Civ. Proc.
§794, Comp. 2037.
Actions called
and passed.

§ 1082. Where an action or special proceeding, placed upon the calendar of a term of a court of record in said city, is regularly called and passed, without a postponement by the court for good cause shown, it must thenceforth be placed on the same or future calendar, as if the date of the issue was the time when it was thus passed.

Id. §795.
Unchanged.
Note of issue,
what to contain.

§ 1083. In a case specified in the last section, the party placing the cause upon the calendar for a subsequent term, must state, in the note of issue, the date of the issue, as prescribed in that section. If he omits to do so, by reason whereof the cause retains its priority on the calendar, the court, on the application of the adverse party, or of its own motion, may strike the cause from the calendar.

Id. §977.
Notice of trial.

§ 1084. Where a party has served a notice of trial, and filed a note of issue for a term, at which the cause is not tried in said city, it is not necessary for him to serve a new notice of trial, or file a new note of issue for a succeeding term; and the action must remain on the calendar until it is disposed of.

Co. Civ. Proc.
§745, Comp. 2036.
Money paid
into court.

§ 1085. Unless the court otherwise specially directs, money paid into court must be paid, either directly or by the officer who is required by law first to receive it, to the chamberlain, within two days after he receives it. A bond, mortgage, or other security, or a certificate or transfer of stock, taken upon the investment of money paid into court, must be taken to the chamberlain as treasurer of the county, in his name of office, or to such other county treasurer as the court specially directs. But this section does not prevent the court, upon the application of a party to an action, from directing in what manner or place money paid into court in the action shall be deposited or invested.

1871, ch. 516,
§§1, 2,
as amended
1878, ch. 83, §1,
ch. 173, §1,
Comp. 1383.
Property
exempt from
taxation.

§ 1086. No property now exempt by law shall be exempt from levy or sale, under an execution, issued upon a judgment obtained in any court in the city of New York for work, labor, or services done or performed by any female employee when the amount of such judgment does not exceed the sum of fifty dollars exclusive of costs. Whenever any execution issued upon

such a judgment shall be returned unsatisfied, the clerk of the court wherein such judgment was obtained shall issue a further execution to any marshal of the City of New York commanding him to collect the amount due upon such judgment, or in default of payment thereof, to arrest the defendant in such execution and him safely convey to the jail or debtor's prison of the county of New York, and commanding the jailor of said jail to keep the said defendant without benefit of jail limits until the said defendant shall pay the said judgment, or be discharged according to law, but such imprisonment shall in no case extend beyond the period of fifteen days.

Arrests in
actions for
work, labor,
and services.

§ 1087. Notice of any sale, made in pursuance of any provision of title one of chapter fourteen of the Code of Civil Procedure, must be given by the officer making it, when the property is situated wholly or partly in said city, by publishing notice of the sale at least twice in each week for the three successive weeks immediately preceding the sale in two daily papers published in said city. Notice of a postponement of the sale must be published in the papers wherein the notice of sale was published.

Co. Civ. Proc.
§1078.
Sale, notice of.

§ 1088. Sales of real estate hereafter made in the city and county of New York, under the decree or judgment of any court, may be made by the sheriff of said city and county, or by a referee appointed for that purpose, by such judgment or decree; but when any sale is made by any officer other than the sheriff, in an action of foreclosure, no greater sum shall be charged or allowed as fees than the following. In cases of sale on foreclosure, the sheriff shall be entitled to receive the following fees and no more: for receiving order of sale and posting notices of sale, ten dollars; for attending sale, ten dollars; for drawing each deed of premises sold, five dollars; for attending and adjourning a sale at the request of the plaintiff in the action or by order of the court, three dollars; but no more than three such adjournments in one action shall be charged for; for making report of sale, five dollars; for paying over surplus money, three dollars, and all disbursements made by him for printers' fees at the rate allowed by law therefor, fees of officers for taking acknowledgements and administering oaths, and all auctioneers' fees actually paid by him, but not to exceed for such auctioneers' fees twelve dollars for each parcel separately sold, which auctioneers' fees shall be paid by the purchaser of the parcel in addition to the amount bid by him therefor.

1869, ch. 569, §41.
2, as amended
1874, ch. 192, §1.
Comp. 1271.
Judicial sales
of real estate.
Fees.

Sheriff's fees
on foreclosure
sales.

Disbursements
to be paid.

Auctioneers'
fees.

§ 1089. Any court of record in the city, or any judge or justice thereof, shall have power at any time after the service of notice of the violation of any of the provisions of sections five hundred and one or five hundred and thirty-seven, and

1831, ch. 450, §5.
Court of record
may restrain
by injunction
violation of sec-
tions 501, 537.

upon the affidavit of one of the commissioners of health, to restrain by injunction order the further progress of any violation named in said sections, or of any work upon or about the building or premises upon which the said violation exists, and no undertaking shall be required as a condition to the granting or issuing of such injunction, or by reason thereof.

1873, ch. 251, §2.
Comp. 852.

§ 1090. Scavengers duly licensed shall not be restricted, prevented, or prohibited from carrying on their business except by action brought in which a trial by jury may be demanded by either party thereto.

1867, ch. 956, §9,
Comp. 449.
No injunction
against board
except by
supreme court
on notice.
1887, ch. 700, §3,
Comp. 460.

§ 1091. No preliminary injunction shall be granted against the board of health, or its officers, 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. 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.

1880, ch. 551, §5.
Injunction
against
assessors.

§ 1092. The board of assessors shall not be in any way enjoined, restrained, hindered or delayed in the performance of the duty imposed upon them in section eight hundred and sixty-eight of this act.

1874, ch. 656, §1,
Comp. 1237.

Journal for
publication of
calendars, etc.

§ 1093. The presiding justice of the supreme court of the first judicial department, the chief judge of the court of common pleas in and for the city and county of New York, the chief judge of the superior court of the city of New York, and the chief justice of the marine court of the city of New York, or a majority of them, shall designate a daily law journal, published in said city, in which shall be published all calendars of the courts of record held in and for said city and county, which calendars shall contain the numbers and titles of the causes and names of the attorneys appearing therein, with such particulars and notices in respect to such calendars, or the causes thereon, as may be specified by the clerks of said courts respectively, under the order of said courts, together with every notice or advertisement in legal proceedings which may be required by law to be published in one or more papers in said city or county. If such notice or advertisement is required to be published in only one paper, then such publication shall be made in said paper; but if such notice or advertisement is required to be published in more than one paper, then one of such requisite papers shall be the paper so designated; provided that nothing herein contained shall be held to apply to, or authorize, or require any advertisement to be inserted in the journal to be designated as

aforesaid, which is directed by law or ordinance to be advertised or inserted in the "City Record," the official paper of the mayor, aldermen, and commonalty of the city of New York, nor to require the publication in such paper of any advertisements, notices, reports, or statements which on December seventeenth, eighteen hundred and seventy-four, were under the direction and control of any officer of the State government, provided that no greater sum shall be paid per folio than was at said date allowed by law.

§ 1094. The expenses of the publication of calendars, directed to be made by the preceding section, for each of the courts therein named shall be paid in the same manner as the expenses of printing and stationery for the use of said courts are now or shall hereafter be paid, and the amounts necessary for such payments, which shall not exceed in the aggregate more than fifteen thousand dollars per annum, shall be appropriated in the same manner as other appropriations are provided by law to be made, for the expenses of said courts; provided that no greater sum shall be paid per folio than that allowed by law on December seventeen, eighteen hundred and seventy-four, provided, further, that not more than ten dollars per annum shall be charged to each annual subscriber therefor.

1876, ch. 656, §2.
Comp. 1267.
Expenses, how paid.

§ 1095. There shall continue to be a law library located in the city of New York, which shall be known as the New York law library. The said library shall be under the care and management of the justices of the supreme court of the first judicial district, who shall be the trustees thereof. All appropriations made for said library shall be paid to said trustees, to be by them disbursed in the purchase of books for said library. The said trustees may make rules and regulations for the management and protection of said library, and prescribe penalties for the violation thereof. They may sue for and recover such penalties, and may maintain actions for injuries to said library. They may procure proper furniture for said library, hire suitable rooms, employ a librarian, provide fuel and lights, and defray all the incidental expenses of the care and management of the said library. They shall yearly ascertain the amount necessary for the aforesaid purposes, and certify it to the board of estimate and apportionment, who shall provide for raising and paying the same.

1865, ch. 722, §51.
2, Comp. 1481.
Justices of supreme court to be trustees.
Rules and penalties.

Care of library.

§ 1096. The trustees of the State library are authorized to place in the said library any duplicate of books in their possession which they may deem proper, and the clerk of the court of appeals is required to send to said library one copy of the printed cases and points in all cases argued or submitted in said court.

1865, ch. 722, §2.
Comp. 1481.
Books to be furnished.

Id. §1.
Misdemeanors.

§ 1097. Any person who shall willfully injure any of the books, furniture, or property of said library shall be guilty of a misdemeanor.

1864, ch. 141,
§§4, 5,
Comp. 369.
By whom, for
what time, inebriates com-
mitted to
asylum.

§ 1098. The justices of the supreme court, in the exercise of their jurisdiction within the city of New York, the justices of the superior court of said city, and the judges of the court of common pleas in and for the county of New York, shall have power to commit to the inebriate asylum, under the control of the commissioners of charities and correction, for a term not to exceed two years, all persons who, being actual inhabitants of the said city, shall be incapable or unfit for properly conducting their own affairs, in consequence of habitual drunkenness. Such commitment shall be made by any of said justices or judges, in any case where the facts referred to in this section shall be made to appear by petition or complaint, duly verified and presented by any relative of such habitual drunkard, or by the commissioners of public charities and correction, or any officer of the police doing duty within the said city, and upon return of a commission issued upon such petition or complaint.

Proceedings be-
fore commit-
ment.

Id. §6.

§ 1099. Upon the presentation of such petition or complaint, the justice or judge to whom the same shall be presented, shall proceed, in the same manner as is directed in title six of chapter seventeen of the code of civil procedure, in relation to the care and custody of the persons and estates of idiots, lunatics, persons of unsound mind and drunkards, and according to the rules and practice of the supreme court in such cases.

Id. §7.
Justice or judge
to issue war-
rant.

§ 1100. Upon becoming satisfied by return of a commission as heretofore provided, that any person is an habitual drunkard and incapable, in consequence thereof, of conducting his or her own affairs, said justice or judge shall have power, in his discretion, to issue his warrant, committing the person so found to be an habitual drunkard, to the custody of the said commissioners of public charities and correction, to be detained in the said asylum for such period, not exceeding two years, as the said justice or judge may deem proper, and such warrant shall be executed by any member of the police, upon the request of said commissioners or one of them. Any such warrant, duly issued, shall be full and sufficient justification for all acts done, by any properly authorized officer, under and in accordance therewith.

1864, ch. 141, §8.
Comp. 369.
When inebriate
may be tempo-
rarily com-
mitted.
Mode of
discharge.

§ 1101. Any justice or judge before whom proceedings may be pending under the three preceding sections, may, after filing of any complaint, and when in his judgment the circumstances of the case render it proper so to do, commit the person charged with being an habitual drunkard, to the said asylum while proceedings on such complaint are pending, and all persons so temporarily committed shall be discharged from said asylum if, on

return of a commission, it shall be determined that they are not proper persons to be detained.

§ 1102. Any person committed to the said asylum, by order of any justice or judge as heretofore provided, may be discharged therefrom at any time before the expiration of the time for which such person was committed, upon the order of any justice or judge having jurisdiction as herein provided, upon such justice or judge being satisfied that such person is cured and fit to be released. Application for such discharge may be made by any person, provided, however, that previous notice of such application shall be given in writing to the said commissioners of public charities and correction. Upon any such application being made, the justice or judge receiving the same shall proceed in the same manner as upon writs of habeas corpus.

Id. §11.
When inebriates may be discharged from asylum.

§ 1103. The supreme court in the first judicial district, the court of common pleas, and the superior court shall have exclusive jurisdiction of all actions or special proceedings wherein the mayor, aldermen, and commonalty thereof are made a party defendant.

1860, ch. 379, §1, Comp. 1370, 1873, ch. 333, §103, Comp. 97. Exclusive jurisdiction in certain cases.

§ 1104. No action or special proceeding shall be prosecuted or maintained against the said mayor, aldermen and commonalty unless it shall appear by, and as an allegation in the complaint or necessary moving papers, that at least thirty days have elapsed since the claim or claims upon which said action or special proceeding is founded were presented to the comptroller of said city for adjustment, and that he has neglected or refused to make an adjustment or payment thereof for thirty days after such presentment. If the plaintiff recover judgment in his action or in his special proceeding, he shall recover full taxable costs without regard to the amount of the judgment.

Id. §2.
Actions against the mayor, aldermen and commonalty.

§ 1105. All process and papers for the commencement of actions and legal proceedings against the corporation of said city shall be served either on the mayor, comptroller, or the counsel to the corporation.

Id. §4.
Process on whom served.

§ 1106. No execution shall be lawfully issued upon any judgment recovered upon such a claim until after ten days' notice, in writing, of the recovery of such judgment shall have been given to the comptroller.

Id. §5.
Ten days' notice to be given before issuing execution.

§ 1107. The volumes entitled "The special and local laws affecting public interests in the city of New York," and printed by order of the legislature of eighteen hundred and eighty, may be read in evidence and cited in any court or proceeding. Said volumes shall be considered as containing presumptively all special or local laws affecting public interests in force in the city of New York, on the first day of January, eighteen hundred and eighty, but this presumption shall not be considered as extending to

1880, ch. 595, §1. Volumes may be read in evidence. Presumptive evidence of special and local laws.

special laws relating to any corporation (other than the mayor, aldermen and commonalty), or to any association or society, nor shall the insertion or omission of any law relating to any such corporation be construed as in any manner affecting the corporate existence of any such corporation or its possession of its franchises.

Title 2.—The Supreme Court.

1852, ch. 374, §7,
Comp. 1272.
To pay extra to
justices of
supreme court.

§ 1108. It shall be lawful for the board of estimate and apportionment to provide for the raising by tax, and for payment to the justices of the supreme court resident in the first district, of such additional annual compensation as they may deem proper.

1853, ch. 573, §2,
Comp. 1273.
Salary of justice assigned.

§ 1109. Whenever any justice of the supreme court from any judicial district, other than the first judicial district, shall be duly assigned to hold any court or perform judicial duties in and for the first judicial district, it shall be lawful for the board of aldermen to pay such justices so assigned a sum not exceeding ten dollars a day for every day such justice shall sit and perform such judicial duties, including the time necessarily devoted to the examination and decision of cases heard by such court while he may be a member thereof.

1875, ch. 414, §1,
Comp. 1273.

Co. Civ. Proc.
§236.
1880, ch. 389.
Governor may
appoint judge
of other court
to hold terms
of supreme
court.
Case and exceptions to be
settled before
judge who tried
the action.

§ 1110. The governor may, when in his opinion the public interest so requires, designate one or more judges of the superior court, or of the court of common pleas, to hold terms of the circuit court, and special terms of the supreme court, in said city. The designation must be in writing, and must specify each term, and the judge designated to hold the same. A case or exceptions, in a cause tried at such a term, must be settled before the judge who held the same, and a judge thus designated may, after the expiration of the period of such designation, decide, finally determine, and dispose of any action, proceeding, or motion that may have been tried or heard before him; and such judge, during the period of such designation, possesses, within the city of New York, all the powers of a justice of the supreme court, in or out of court, to make orders in any action or special proceeding in the supreme court.

Co. Civ. Proc.
§232, Comp. 2085.
Two terms of
court may be
held.

§ 1111. Two or more terms of the circuit court may be appointed to be held, and may be held, at the same time, in said city.

1869, ch. 875, §1,
Comp. 1450.
1870, ch. 382, §1,
Comp. 1451.
1867, ch. 415, §2,
Comp. 1450.
Resolutions of
supervisors,
Dec. 29, 1847;
Nov. 23, 1854;
Dec. 27, 1864;

§ 1112. There shall be in the supreme court in said city the following clerks to be appointed by the county clerk: a law clerk and an equity clerk, at an annual salary of thirty-five hundred dollars each; a clerk of the general term, a clerk of the special term, and a clerk at chambers, at an annual salary of two thousand dollars each; a clerk of each of the parts one, two, and

three of the circuit, at an annual salary of two thousand dollars each, and two additional clerks to be assigned to part one of the circuit, at an annual salary of fifteen hundred dollars each.

§ 1113. The judges of the supreme court within the first judicial district, or a majority of them, from time to time, may appoint, and at pleasure remove, such attendants upon the court, including the circuit court and the court of oyer and terminer, as they think necessary for the due transaction of the business thereof; not exceeding four attendants for each part, and four for the general term. Their salaries shall be twelve hundred dollars per annum; but the salaries of attendants appointed after May twenty-ninth, eighteen hundred and eighty, shall be one thousand dollars per annum.

§ 1114. The justices of the supreme court for the first judicial district, or a majority of them, must appoint, and may at pleasure remove, a stenographer for each term of the circuit court, for the general term of the supreme court, and for each special term of the supreme court, where issues of fact are triable, which constitutes a separate part. Each stenographer so appointed is entitled to a salary of twenty-five hundred dollars per annum. He must attend all the sittings of the part for which he is appointed. If any judge requires a copy of any proceedings written out at length from the stenographic notes, he may make an order, directing one-half of the stenographer's fees therefor to be paid by each of the parties to the action or special proceeding, at the rate of ten cents for each folio so written out, and may enforce payment thereof. If there are two or more parties on the same side, the order may direct either of them to pay the sum payable by their side for the stenographer's fees; or it may apportion the payment thereof among them, as the judge deems just.

§ 1115. The judge who holds, in the first judicial district, an extraordinary term of the circuit court, or an extraordinary special term of the supreme court, must appoint a stenographer for that term, who is entitled to a compensation, at the rate and in the manner prescribed by law for the official stenographer.

§ 1116. The justices of the supreme court of the first judicial district, or a majority of them, are hereby authorized to appoint from time to time, as shall be necessary, a suitable person to discharge the duties of crier of the supreme court in the city and county of New York; such person to be paid such compensation and in such manner as the board of estimate and apportionment shall determine.

§ 1117. A motion, upon notice, in an action in the supreme court triable in the first judicial district, must be made in that district; a motion, upon notice, cannot be made in that district,

March 29, 1848;
April 16, 1867;
March 22, 1848;
April 26, 1848;
Nov. 24, 1863;
Feb. 1, 1869.
Co. Civ. Proc.
§98, Comp. 1269.
Attendants
upon courts in
New York city.
1872, ch. 438.
1890, ch. 521. §2.

Co. Civ. Proc.
§251; 1880, ch. 54;
1871, ch. 700.
Stenographers
in first district.

Id. §252.
Stenographers
for extra terms
in New York
city.

1865, ch. 296. §2.
Comp. 1274.
Crier of court.

Co. Civ. Proc.
§§769, 770.
Comp. 2036.
Motions, where
made.

in an action triable elsewhere. But this section does not apply to a case where it is specially prescribed by law, that a motion may be made in the county, where the applicant, or other person to be affected thereby, or the attorney resides. In the first judicial district, a motion which elsewhere must be made in court, may be made to a judge out of court, except for a new trial on the merits.

1859, ch. 302, §20,
Comp. 559.
Review to be
allowed by
court.

§ 1118. A certiorari to review and correct on the merits, any decision or action of the commissioners of taxes and assessments in pursuance of sections eight hundred and nineteen and eight hundred and twenty of this act, shall be allowed by the supreme court or any judge thereof directed to the said commissioners, on the petition of the party aggrieved.

1847, ch. 391, §1,
as amended
1848, ch. 32, §1,
Comp. 1275.
Power of su-
preme court to
decree an abso-
lute sale.

§ 1119. In all cases where several persons are the owners, or claim to be the owners of any real estate or chattels real, lying within the bounds of the city and county of New York, having different estates, or estates in common therein, in possession, remainder or reversion, and which said persons shall by virtue of such ownership, or claim to such ownership, be entitled or claim to be entitled by law to a pre-emptive right, to have, take, or demand the grant or lease of any other land, or easement in land, from the mayor, aldermen, and commonalty of the city of New York, the supreme court of this State shall have power, and such court is hereby vested with full power and authority, on the application of either of the said owners, or of the said mayor, aldermen, and commonalty of the city of New York, to decree an absolute sale and conveyance of such right of pre-emption, and to make such disposition of the net moneys arising from such sale, after the payment of the costs and expenses of the proceedings, as shall be just and proper, according to the rights and interests of the said several owners.

1847, ch. 391, §2,
Comp. 1275.
Sale, how to be
made and con-
ducted.

§ 1120. Such sale shall be made and conducted on like notice by the like officer, and in the same manner and form as sales of real estate on the foreclosure of a mortgage by virtue of a decree or order of said court, and a deed of conveyance for the said right of pre-emption shall in like manner be executed and delivered to the purchaser, which deed shall vest in the purchaser absolutely all the claim, right, title, and interest of the owner of the said right of pre-emption, and every of them, of, in, or to the said right of pre-emption thus sold and conveyed; provided always, in every case the applicant shall give six weeks' previous notice of such intended application if the owners entitled by law to such pre-emption right are residents, and six months' previous notice of such intended application if the owners are non-residents of this State, by publication for three months successively, twice in each week, in two of the daily papers published in the

Proviso.

ch. 32, §2,
Comp. 1275.

city of New York prior to such application to the court for an order of sale; and provided also, that the court shall be satisfied that such order of sale shall not interfere with or impair the obligation contained in any lease or contract made by the said mayor, aldermen, and commonalty to or with any person or persons whatsoever.

§ 1121. In all cases where any owner shall be an infant, a guardian shall be appointed for such infant, who shall give the like security, and possess the like powers, and discharge the like duties as in cases for the partition of lands.

Id. §8.
Provision in
case of infants.

§ 1122. Whenever any owner shall reside in the city of New York, notice of such intended application shall be served personally on such owner, or by leaving the same at his dwelling-house with some person of suitable age and discretion at least twenty days before such application is made, and in all cases where such owner shall reside out of the said city and within any of the United States, and such place of residence be known to the applicant, such notice shall be served by mail, addressed to such owner at his place of residence at least three months before such application is made. Proof of such service by affidavit shall be made to the court before any order of sale shall be made. Any of the parties to said suit may become the purchaser on said sale.

Id. §§4, 5.
Notice, how to
be served on
owners.

Title 3.—The Court of Common Pleas and the Superior Court.

§ 1123. The court of common pleas for the city and county of New York and the superior court of the city of New York are courts of record. The judges thereof are magistrates. The court of common pleas for the city and county of New York and the superior court of the city of New York consist of six judges for each court, one of whom must, from time to time, as a vacancy occurs, be appointed chief judge of his court, as prescribed in the constitution.

Co. Civ. Proc.
§2, Comp. 1208.
1881, ch. 442, §147.
Co. Civ. Proc.
§237, Comp. 1208.
Each court
to consist of six
judges; chief
judge.

§ 1124. When the official term of any judge of the superior court or of the court of common pleas will expire at the close of any year, by the effluxion of time or the disability of age, the successor of such judge shall be chosen at the preceding general election. Vacancies otherwise occurring in the said offices shall be filled in the manner prescribed in the ninth section of the sixth article of the constitution.

1870, ch. 86, §9,
Comp. 1267.
Successors,
when and how
chosen.

§ 1125. The superior court and the court of common pleas respectively may, from time to time, by an order made at general term, direct the clerk of the court to destroy any of the following papers, now filed, or hereafter to be filed in his office, which the court deems to have become useless, to wit: Plead-

Co. Civ. Proc.
§21, Comp. 1279.
Certain papers
may be de-
stroyed.

ings or copies of pleadings furnished for the use of the court-jury panels and returns of inferior courts, which have been embodied in judgment-records or judgment rolls. But this provision does not authorize the destruction of a judgment-roll or a paper incorporated or necessary to be incorporated into a judgment-roll.

Co. Civ. Proc.
§263, Comp. 1279.
General jurisdiction of the
superior city
courts.

§ 1126. The civil jurisdiction of the superior court and the court of common pleas extends to the following actions and special proceedings, in addition to the jurisdiction, power, and authority conferred upon either of said courts, in a particular case, by special statutory provision :

1. To an action of ejectment; for the partition of real property; for dower; to foreclose a mortgage upon real property or upon a chattel real; to compel the determination of a claim to real property; for waste; for a nuisance; or to procure a judgment directing a conveyance of real property; and to every other action to recover or to procure a judgment, establishing, determining, defining, forfeiting, annulling, or otherwise affecting an estate, right, title, lien, or other interest in real property or a chattel real. But jurisdiction attaches under this subdivision only where the real property to which the action relates is situated within the city of New York.

2. To an action for any other cause, where the cause of action arose within that city; or where the defendant is a resident of that city; or where the summons is personally served upon the defendant therein; or where the action is brought to recover a penalty, or for any other cause of action given by the charter, a by-law or an ordinance of that city.

3. To an action to recover damages for an injury to real property, or a chattel real; or for the breach of a contract, express or implied, relating to real property or a chattel real; where the real property is situated within that city, or where the defendant is a resident of that city, or where the summons is personally served upon the defendant therein.

4. To an action to recover a chattel; to foreclose or enforce a lien upon personal property; or to recover damages for an injury to personal property; where the property to which the action relates is situated within that city at the time when the action is commenced. If the property consists of one or more shares in the capital stock of a domestic corporation or joint-stock association, whose principal place of business is located or established within that city, or of a debt due from, or money, or a thing in action, in the possession or under the control of, such a corporation or joint-stock association, it is deemed to be situated within that city, within the meaning of this subdivision.

5. To a judgment creditor's action; where the judgment upon which the action is founded was recovered in the same court.

6. To an action for any cause brought by a resident of the city, against a natural person, who is not a resident of the State.

7. To an action brought by a resident of that city against a foreign corporation, either (one) to recover damages for the breach of a contract, express or implied, or a sum payable by the terms of a contract, express or implied, where the contract was made, executed or delivered within the State, or where the cause of action arose within the State; or (two) where a warrant of attachment, granted in the action, has been actually levied, within that city, upon property of the corporation; or (three) where the summons is served by a delivery of a copy thereof, within that city, to an officer of the corporation, as prescribed by law.

8. To the custody of the person and the care of the property, concurrently with the supreme court, of a person residing in that city, or residing without the State and sojourning in that city; who is incompetent to manage his affairs by reason of lunacy, idiocy or habitual drunkenness; and to any special proceeding which the supreme court has jurisdiction to entertain, for the appointment of a committee of the person or of the property of such an incompetent person, or for the sale or other disposition of the real property, situated within that city, of a person, wherever resident, who is so incompetent, or who is an infant; or for the sale or other disposition of the property, or the voluntary dissolution of a domestic corporation, whose principal place of business is located or established within that city, or for the sale or other disposition of the real property situated within that city, of a domestic corporation, wherever it is located.

9. To any other special proceeding which the supreme court has jurisdiction to entertain, where the person against whom it is brought is a resident of that city, or the mandate by which the special proceeding is commenced is personally served upon him within that city, or all the acts or omissions upon which it is founded were done or committed within that city, or the subject thereof is situated within that city; or where the special proceeding is brought for such a purpose, or under such circumstances that the said superior court or court of common pleas would have jurisdiction of an action for the like purpose, or under the like circumstances, by the terms of subdivision first of this section.

§ 1127. For the purpose of determining the jurisdiction of the said courts in a case specified in the last section, a domestic cor-

Co. Civ. Proc.
§264, Comp. 1281.

Domestic corporations, etc., when deemed residents, etc.

poration or joint-stock association, whose principal place of business is established, by or pursuant to a statute, or by its articles of association, or is actually located, within the city of New York, is deemed a resident of that city; and personal service of a summons, made within that city, as prescribed in the Code of Civil Procedure, or personal service of a mandate, whereby a special proceeding is commenced, made within that city, as prescribed in said act for personal service of a summons, is sufficient service thereof upon a domestic corporation, wherever it is located.

Id. §265.
Where there are two or more defendants.

§ 1128. Where an action or a special proceeding is brought against two or more parties, and the jurisdiction of the said courts depends upon the residence of a party, within the city; or personal service upon him, within the city, of the summons or the mandate for the commencement of the special proceeding; or the levying of a warrant of attachment within the city; and jurisdiction is thus acquired as against one or more, but not as against all of them, the jurisdiction, with respect to the others, is governed by the following rules:

1. Where the action or special proceeding is founded upon a contract, upon which two or more persons are jointly liable, and the court has or acquires jurisdiction thereof, as against one of them, it has jurisdiction thereof as against all the persons so jointly liable. But this subdivision does not extend to a case where the liability is several as well as joint.

2. Where an action or a special proceeding brought against a public officer, together with one or more private persons, is founded upon an official act or omission; or where an action or a special proceeding brought against a corporation, together with one or more natural persons, is founded upon an act or omission of the corporation; and the court has or acquires jurisdiction thereof, as against the public officer or the corporation; it has jurisdiction thereof as against all persons who are necessary parties to the complete determination of the controversy.

3. Where it is not necessary to the complete determination of the controversy, that all the parties thereto should be subjected to the jurisdiction of the court, the action or special proceeding may be discontinued or dismissed, as to the parties over whom the court has not jurisdiction, and proceed as to the others, as if they were the only parties against whom it was brought.

Co. Civ. Proc.
§265, Comp. 1222.
Jurisdiction to be presumed;
want of jurisdiction matter of defense.

§ 1129. The jurisdiction of the said courts in an action or a special proceeding brought therein, must always be presumed. It is not necessary to set forth in a complaint in such an action, or in the petition or other statement of the case in such a special proceeding, any of the jurisdictional facts specified in section

eleven hundred and twenty-six of this act; and where the defendant in the action, or the person against whom the special proceeding is instituted, appears, the want of jurisdiction, by reason of the non-existence of any of those facts is a matter of defense, and is waived by the appearance, unless it is pleaded in defense.

§ 1130. Where either of said courts has jurisdiction of an action or special proceeding, it possesses the same jurisdiction, authority, and power in and over the same, and in the course of the proceedings therein, which the supreme court possesses in a like case; and it may render any judgment, or grant either party any relief, which the supreme court might render or grant in a like case, and may enforce its mandates in like manner as the supreme court. And each judge of such court possesses the same power and authority, in the action or special proceeding, which a justice of the supreme court possesses in a like action or special proceeding brought in the supreme court.

Co. Civ. Proc.
§267, Comp. 1282.
Jurisdiction,
etc., to be co-
extensive with
that of supreme
court.

§ 1131. Each judge of said courts also possesses the same power and authority, in a special proceeding, which can be lawfully instituted before him, out of court, which a justice of the supreme court possesses in a like special proceeding instituted before him in like manner.

Id. §268.
Id.; in special
proceedings
out of court.

§ 1132. The supreme court may, by an order made at any time after joinder of an issue of fact, and before the trial thereof, remove to itself an action or a special proceeding pending in either of said courts, for the purpose of changing the place of trial or hearing thereof. Where an order for a removal is made, as prescribed in this section, the place of trial or hearing must be changed by the same order to another county. A certified copy of the order must be filed in the office of the clerk of the court in which the action or special proceeding was commenced. Thereupon it is removed into the supreme court; and the subsequent proceedings therein must be the same as if it had been originally brought in the supreme court.

Id. §269.
Actions, etc.,
may be re-
moved into
supreme court.

§ 1133. An order for the removal of an action or special proceeding, as prescribed in the last section, can be made only upon notice, and by a special term of the supreme court, where the motion might be made if the action or special proceeding was pending in the supreme court, and brought in the county of New York; and in a case where an order, changing in like manner the place of trial or hearing, would be granted if the action or special proceeding was pending in the supreme court.

Co. Civ. Proc.
§270, Comp. 1283.
Where and in
what cases
order for re-
moval to be
granted.

§ 1134. An appeal from an order, made upon such a motion, must be taken and heard in like manner as if the action or special proceeding was pending in the supreme court and triable in the county of New York. Such an appeal brings up to the gen-

Id. §271.
Appeal from
order of
removal.

eral term, and thence to the court of appeals, if the order is appealable to that court, all questions which were before the special term, and the appellate tribunal must dispose of the same as if they were originally presented to it.

Id. §272.
Order to stay
proceedings to
procure
removal.

§ 1135. An order to stay proceedings, for the purpose of affording an opportunity to make such an application for removal, may be made by a judge, authorized to make an order to stay proceedings, either in the court where the action or special proceeding is pending, or in the supreme court, and with like effect, and under like circumstances.

Co. Civ. Proc.
§273, Comp. 1283.
Removal to su-
preme court
when judges of
city court can-
not act.

§ 1136. If all the judges of either of said courts are, for any reason, incapable of sitting upon the trial of an action, or the hearing of a special proceeding pending therein, or if all, or all but one, of the judges of either of said courts are incapable of sitting upon the hearing of an appeal therein, the judges of the court, or a majority of them, must make and file in the office of the clerk of the court a certificate of the fact. Thereupon the action or special proceeding is removed to the supreme court; and the subsequent proceedings therein must be the same as if it had been originally brought in the supreme court.

Id. §274.
Removal from
supreme court
to city court
by consent.

§ 1137. The supreme court, where the parties manifest in writing their consent, must make an order directing that an action or special proceeding, pending in that court and triable in the county of New York, be removed to either of said courts as specified in the consent. A certified copy of the order must be filed in the office of the clerk of the court to which the action or special proceeding is ordered to be removed. Thereupon it is removed accordingly; and all subsequent proceedings therein must be the same as if it had been originally brought in said court.

Id. §275.
Duty of Clerks
when removal
made.

§ 1138. Where an action or special proceeding is removed from one court to another, the clerk of the court from which it is removed must forthwith deliver to the clerk of the court to which it is removed all papers filed therein, and certified copies of all minutes and entries relating thereto, which must be filed, entered, or recorded, as the case requires, in the office of the last-mentioned clerk. If the action or special proceeding is removed to the supreme court, and the place of trial or hearing changed, the delivery must be made to the clerk of the county in which the order of removal directs the trial or hearing to be had.

Co. Civ. Proc.
§276, Comp. 1284.
Removal not to
affect validity
of former pro-
ceedings, etc.

§ 1139. The removal of an action or special proceeding does not invalidate or in any manner impair a process, provisional remedy, or other proceeding, or a bond, undertaking, or recognizance, in the action of special proceeding so removed;

each of which continues to have the same validity and effect as if the removal had not been made. Where bail has been given, the surrender of the defendant in the court to which the action or special proceeding was removed, has the same effect as a surrender in the court from which it was removed would have had if the action or special proceeding had remained therein.

§ 1140. In an action or special proceeding brought in the superior court or the court of common pleas, an order may be made without notice, or an order to stay proceedings may be made upon notice by the county judge of the county where the attorney for the applicant resides, in a case where a judge of either of said courts might make the same out of court, and with like effect.

Id. §277.
When county
judge may
make order.

§ 1141. Either of said courts has power, in an action or special proceeding of which it has jurisdiction, to send its process and other mandates into any county of the State for service or execution, and to enforce obedience thereto, with like power and authority as the supreme court.

Id. §278.
Power to send
process to any
county.

§ 1142. The judges of each of said courts, or a majority of them, must, from time to time, appoint the times for holding the general, special, and trial terms of their court. They must also assign the judges to hold each of the terms, and designate the trial terms at which issues of fact are triable by a jury. A general, a special, and one or more trial terms may be appointed to be held, and may be held at the same time. The judges, or a majority of them, must also appoint reasonable times when a judge must attend at chambers, and designate the judge to attend for that purpose. Each appointment, made as prescribed in this section, must be signed by the judges making the same, and filed in the clerk's office. A copy thereof must be published in the newspaper printed in Albany, in which legal notices are required to be published, and in the daily law journal designated according to law, at least once in each week, for three successive weeks, before a term is held by virtue thereof.

Co. Civ. Proc.
§280, Comp. 1284.
Appointment
of terms, etc.

§ 1143. A general term of either of said courts must be held by at least two judges. Two must concur to determine a cause, otherwise it must be reheard; except that if the remaining judge or judges are disqualified to sit upon an appeal, the judgment or order appealed from must be affirmed, unless a rehearing is directed.

Co. Civ. Proc.
§281, Comp. 1285.
General terms,
by whom held,
etc.

§ 1144. A special term or a trial term of either of said courts must be held by one judge.

Id. §282.
Special and
trial terms.
Id. §283.

§ 1145. When the chief judge of either of said courts certifies that a book of minutes, records, indices, or dockets of judgments,

New records,
etc., in place of
those mutila-
ted or injured.

in the office of the clerk of the court, has become so mutilated or injured that it cannot be conveniently used or correctly examined, the clerk of the court must cause a copy thereof to be made. The expense of making the copy, not exceeding ten cents for each folio, is a charge upon the city, and it must be paid by the comptroller, upon the certificate of the clerk that the copy was made pursuant to his direction. The copy, when certified by the clerk to be a correct copy of the original, has, presumptively, the effect of the original. The original must be preserved, and may be referred to any time, by the direction of a judge of the court.

Id. §284.
Clerks and
deputy clerks.

§ 1146. Each of said courts has a clerk who is appointed, and may be removed at pleasure, by the judges of the court, or a majority of them. Each clerk, by a writing under his hand and the seal of the court filed in his office, must appoint, and may at pleasure remove, a deputy clerk. The deputy clerk has all the powers, and may perform all the duties of the clerk, when the office of clerk is vacant, or at the clerk's office, when the clerk is absent therefrom, or at a term or sitting of the court, which the deputy clerk attends. Each clerk and each deputy clerk must subscribe, and file in the clerk's office, the constitutional oath of office; and is entitled to a salary, fixed and to be paid as prescribed by law.

Id. §285
as amended
1879, ch. 542.
Special deputy
clerks.

§ 1147. A special deputy clerk appointed as prescribed by law, possesses the same powers as the clerk, at a sitting or term of the court which he attends, with respect to the business transacted thereat.

Co. Civ. Proc.
§288, Comp. 1286.
Assistants, etc.,
in clerks'
offices.

§ 1148. The clerk of each of those courts may appoint, and at pleasure remove, such special deputy clerks and other assistants as he deems necessary; but a special deputy clerk or an assistant, so appointed, is not entitled to any compensation out of the treasury of the city of New York, unless his compensation is fixed by law, or allowed pursuant to law.

Co. Civ. Proc.
§289, Comp.
1286.
Stenographers.

§ 1149. The judges of each of those courts, or a majority of them, must appoint, and may at pleasure remove, a stenographer for each term of the court, for the trial of issues of fact, constituting a distinct part. Each stenographer so appointed is entitled to a salary, fixed and to be paid as prescribed by law. He must attend all the sittings of the part for which he is appointed. If the judge requires a copy of any proceedings written out at length from the stenographic notes, he may make an order directing one-half of the stenographer's fees therefor, to be paid by each of the parties to the action or special proceeding, at the rate of ten cents for each folio so written out, and may enforce payment thereof. If there are two or more parties on the same side, the order may direct either of them to

pay the sum payable by their side for the stenographer's fees, or it may apportion the payment thereof among them, as the judge deems just.

§ 1150. The judge who holds an extraordinary trial term of either of those courts must appoint a stenographer for that term, who is subject to all the provisions of law relating to an assistant stenographer, and is entitled to a compensation at the rate and in the manner prescribed by law for the official stenographer.

Id. §290.
Stenographer
for extra term.

§ 1151. The judges of each of those courts, or a majority of them, must appoint, and may at pleasure remove, one crier for their court. Each crier so appointed is entitled to salary, fixed and to be paid as prescribed by law. He is not entitled to any other compensation.

Id. §291.
Criers.

§ 1152. The clerks of the court of common pleas and the superior court must account for all fees received by them respectively for their official services, and pay the same into the city treasury, as prescribed by law.

Co. Civ. Proc.
§3284.
Clerks to ac-
count for fees.

§ 1153. The judges, or a majority of them, of the court of common pleas and the superior court, from time to time, may appoint, and at pleasure remove, such attendants upon the courts of which they are respectively members, as they think necessary for the due transaction of the business thereof; not exceeding four attendants for each part, and four for the general term.

Co. Civ. Proc.
§38, Comp. 1899.
Attendants
upon courts.

§ 1154. The court of common pleas and the superior court shall also have jurisdiction in the following cases:

1. Of applications by the general guardian of an infant and by the committee of an idiot, lunatic, or habitual drunkard for authority to agree to a partition of the real property of such infant, idiot, lunatic, or habitual drunkard, situated in the city.

Co. Civ. Proc.
§§1500, 1591.

2. Of applications for leave to prosecute the sheriff's official bond, where he is liable for the escape of a prisoner committed to his custody, or is guilty of any other actionable default or misconduct in his office, where the application is made by the persons injured thereby.

Id. §1880.

3. Of applications for leave to prosecute the official bond of the surrogate, or person acting as surrogate, who has been guilty of any actionable default or misconduct in the office, where the application is made by the person injured thereby.

Id. §§1886, 1889

4. Of an application for leave to prosecute the official bond of the county treasurer, who has failed to pay or deliver, in accordance with an order of court duly served upon him, any money, stocks, securities, or other investments held by him subject to the direction of that court, where the application is made by the person injured thereby.

Co. Civ. Proc.
§§1887, 1889.

Co. Civ. Proc.
§§1898, 1899.

5. Of an application for leave to prosecute the official bond given to the people by any public officer, in cases where special provision is not made by law, for the prosecution of the bond, by or for the benefit of a person who has sustained, by his default, delinquency, or misconduct, an injury, for which the sureties upon the bond are liable, where the application is made by such person so injured.

Co. Civ. Proc.
§§2008, 2009,
2010, 2011.
Habeas corpus.

§ 1155. A writ of habeas corpus, for the purpose of bringing before the court a prisoner, detained in a jail or prison within the State, to testify as a witness in a pending special proceeding, civil or criminal, in behalf of the applicant, before any officer or body in said city authorized to examine a witness therein, may be issued by a judge of the court of common pleas or superior court upon the application of a party to such special proceeding, civil or criminal, made in the manner prescribed by law. Such a writ may also be issued by any such judge upon the application of a party to the action pending in a district court of the city of New York, to bring before the court, to be examined as a witness, a prisoner confined in the jail of the city or county, or an adjoining county. A writ shall not be issued, by virtue of this section, to bring up a prisoner, sentenced to death, nor shall it be issued to bring up a prisoner confined under any other sentence for a felony; except where the application is made in behalf of the people to bring him up as a witness on the trial of an indictment, and then only by and in the discretion of the judge, upon such notice to the district attorney of the county wherein the prisoner was convicted, and upon such terms and conditions, and under such regulations, as the judge may prescribe.

Id.; in suit before justice of the peace, etc.

Writ not to issue to bring up prisoner under death sentence, nor for felony, except on application of people.

Co. Civ. Proc.
§§2045, 2046,
2047.

§ 1156. Upon the production of a final order made upon the return to a writ of certiorari issued according to law, fixing the sum in which a prisoner confined in said city is to be admitted to bail; specifying the court, and the term thereof, at which he is required to appear; and directing his discharge, upon bail being given accordingly, as required by law or, where such order was made by a court, upon the production of a certified copy to a judge of the court of common pleas or superior court, the judge must take the recognizance of the prisoner, with two sureties, in the sum so fixed, conditioned for the appearance of the prisoner, as prescribed in the order. Each person, offering himself as a surety must show, by his oath, to the satisfaction of the judge, that he is a householder in the county, and worth twice the sum in which he is required to be bound, over and above all demands against him. It is not necessary that the prisoner should appear in person before the judge to acknowledge the recognizance, but it may be acknowledged by the pris-

oner, and certified in like manner as a deed to be recorded in the county. The judge must immediately file the recognizance with the clerk of the court before which the prisoner is bound to appear. He must also make a certificate upon the order, or the certified copy thereof, to the effect that it has been complied with. Upon production of the certificate, the prisoner is entitled to his discharge from imprisonment, for any cause stated in the return to the certiorari.

§ 1157. Where a prisoner who stands charged upon a criminal accusation with a bailable offense has perfected an appeal to the court of appeals, from a final order of the court of common pleas or the superior court affirming an order refusing his discharge or reversing an order granting his discharge, the court, from whose order the appeal is taken, or a judge thereof, must, upon his application, admit him to bail in the manner prescribed by law, but the recognizance must be conditioned to appear at a general term of the court from which the appeal is taken, to abide by and perform its judgment or order, made after the determination of the appeal.

Co. Civ. Proc.
§§2060, 2062.

§ 1158. The court of common pleas and the superior court have jurisdiction to issue a writ of certiorari in the same manner and to the same extent as the supreme court, except in cases where it is otherwise expressly provided by law.

Co. Civ. Proc.
§2123.

§ 1159. In an action brought in the court of common pleas or the superior court to foreclose a lien upon a chattel, the court or a judge thereof has jurisdiction in a case provided by law to issue a warrant to the sheriff, commanding him to seize the chattel and safely keep it, to abide the final judgment in the action.

Co. Civ. Proc.
§§1737, 1738.

§ 1160. Whenever, by the decision of the general term of the court of common pleas or the superior court, a construction is given to a statute, an act done, in good faith, and in conformity to that construction, after the decision was made, and before a reversal thereof by the court of appeals, is so far valid, that the party doing it is not liable to any penalty or forfeiture, for an act that was adjudged lawful by the decision of the court below.

Co. Civ. Proc.
§1961.
When action
cannot be main-
tained.

§ 1161. The court of common pleas and the superior court may each direct that money paid into that court in an action brought therein on a bond, mortgage, or other security, or public stock, in or upon which it has been invested or loaned, be transferred and delivered to a general or special guardian, committee, or other trustee, upon his giving, or if he has given, security, satisfactory to the court for the faithful execution of his trust; or that a bond, mortgage, or other security, or public stock, be taken by and in the name of the guardian, committee, or

Co. Civ. Proc.
§§747, 748.
Comp. 1296.

other trustees; and be collected, invested, or loaned, as the court directs, or as prescribed in the general rules of practice.

Co. Civ. Proc.
§4.
Comp. 1268.

§ 1162. The court of common pleas and the superior court shall each continue to exercise the jurisdiction and powers vested in such court by law on the first day of September, eighteen hundred and seventy-seven, and according to the course and practice of the court, except as otherwise prescribed in the Code of Civil Procedure or subsequent acts.

Co. Civ. Proc.
§286, Comp. 1285.
Special jurisdiction of the common pleas.

§ 1163. The court of common pleas has power and jurisdiction to correct or discharge a judgment, entered in any court held within that city and county, upon a forfeited recognizance, or the docket of such a judgment, in like manner as if it was a judgment rendered in that court; to remit a fine or forfeited recognizance, in a case where a county court can remit the same, and in like manner; and to entertain any special proceeding, which, in any county, except New York, may be instituted in the county court.

Co. Civ. Proc.
§§2149, 2150,
2168, 2200, 2201.
Insolvent debtors.

§ 1164. The court of common pleas has exclusive jurisdiction of the application of an insolvent debtor, who resides in the city of New York, to be discharged from his debts in accordance with the provisions of chapter seventeen, title one, article one of the code of civil procedure, and of applications in accordance with article second thereof, by an insolvent debtor, who resides or is imprisoned in said city, to be exempted from arrest or discharged from imprisonment; and of applications for discharge in accordance with article third thereof, by a person imprisoned in said city by virtue of an execution to collect a sum of money issued in a civil action or special proceeding.

Co. Civ. Proc.
§2219.
Trustees of property of prisoners.

§ 1165. The court of common pleas and superior court have jurisdiction of applications to appoint one or more trustees to take charge of the property of a person imprisoned in a State prison, for a term less than for life; or in a penitentiary or county jail, for a criminal offense, for a longer term than one year; in cases where the prisoner resided at the time of his imprisonment in said city, or, if he was not then a resident of the State, where he is imprisoned in said city.

Co. Civ. Proc.
§3410.
Proceedings for change of name.

§ 1166. The court of common pleas has exclusive jurisdiction of proceedings to change the name of any person residing in said city.

Clerk of common pleas to make return, etc.

§ 1167. The clerk of the court of common pleas must annually, in the month of December, make a return to the secretary of State, of all the changes of names of persons, which have been made within his county, since his last return, as prescribed by law.

Co. Civ. Proc.
§2418.

Co. Civ. Proc.
§§2432, 2434.

§ 1168. A judge of the court of common pleas has jurisdiction in proceedings supplementary to execution, as provided in chap-

ter seventeen, title twelve of the code of civil procedure, where the execution was issued to said city from a court other than the marine court.

§ 1169. A judge of the court of common pleas has jurisdiction to take and approve a recognizance in behalf of a prisoner entitled to give bail in a sum fixed in accordance with law pending an appeal from a final order duly made dismissing proceedings of habeas corpus or certiorari, remanding him or otherwise refusing to discharge him.

Co. Civ. Proc.
§§2060, 2061, 2062.

§ 1170. The common council must, by ordinance, assign the clerk of the court of common pleas a suitable office in the city hall in that city.

1854, ch. 198, §2.
Comp. 1287.
Clerk's office.

§ 1171. There may be in the court of common pleas a deputy clerk and twelve assistants. The salary of the clerk is six thousand dollars a year; the salary of the deputy clerk is five thousand dollars a year; the salaries of eleven of the assistant clerks are two thousand five hundred dollars each a year, and the salary of one of the assistant clerks is two thousand dollars a year; the salary of the stenographers is two thousand five hundred dollars each; the salaries of the officers or attendants are twelve hundred dollars each. But the salaries of the persons appointed after May twenty-ninth, eighteen hundred and eighty, to the positions of clerk, deputy clerk, assistant clerks, or attendants or officers to said court shall be as follows: Of the clerk, four thousand five hundred dollars; of the deputy clerk, two thousand dollars, and of the assistant clerks, one thousand five hundred dollars each; of the attendants or officers, one thousand dollars each, and such salaries shall be all that the persons holding such offices respectively shall be entitled to receive from the treasury of the city for any and all services rendered to the city or county during the term for which such salary shall be received.

1854, ch. 198, §2.
Comp. 1287.
1868, ch. 854, §1.
Comp. 1289.
1869, ch. 664, §2.
Comp. 1288.
1870, ch. 382, §1.
Comp. 1290.
Co. Civ. Proc.
§284, Comp. 1285.
1880, ch. 521, §2.
Resolution
board of super-
visors, Sept. 17.
1869.
Co. Civ. Proc.
§256, Comp. 2033.

§ 1172. The superior court shall be held at the city hall of the city of New York, and the terms thereof shall respectively be called after the different months in which they are held, and they may be continued and held from the time of their commencement, every day, Sundays excepted, until and including the last Saturday of the same month.

1828, ch. 137, §3
Comp. 1278.
Terms.
See Code Civ.
Proc. §280.

§ 1173. The clerk shall keep his office at the city hall of the city of New York, and attend the said court and officiate as clerk thereof.

Id. §9.
Clerk.

§ 1174. Writs of subpoena issuing out of the said court shall be obligatory upon any witness duly served therewith within this State, in like manner as if such writs had been issued out of the supreme court; and the said court shall have power to enforce obedience to such subpoena by attachment, to be directed

Id. §14.
Writs of
subpoena.

to any sheriff or other proper officer of any county in this State who shall be subject to all the pains and penalties for not serving or returning the same, in like manner as if the same had issued out of the supreme court, and the like process and proceedings may be issued and had thereon in the said court, as are usual in like cases in the supreme court, and with like effect.

1842, ch. 432, §13,
as amended
1853, ch. 610,
Comp. 1341.
Officers and
assistants to
give security.
1849, ch. 124, §13,
Comp. 1287.
Fees of clerk.
49 How. 354.

§ 1175. The board of aldermen are authorized and empowered to require from the clerk of the superior court and from any of his assistants, such security for the faithful performance of their duty as to the said board may seem necessary and proper.

§ 1176. The clerk of the superior court shall receive for every trial from the party which shall bring it on, one dollar; on entering judgments, one dollar. He shall receive no other fee for any service whatever in a civil action, except for copies of papers at the rate of five cents for every one hundred words.

1868, ch. 854, §1,
Comp. 1289.
1869, ch. 875, §1,
Comp. 1290.
Co. Civ. Proc.
§284, Comp. 1285.
1847, ch. 423, §7,
Comp. 1440.
Resolutions
board of super-
visors, Sept. 16,
1869.
Ordinance com-
mon council,
May, 1872.
Co. Proc.
§256, Comp. 2033.
1880, ch. 521, §2.

§ 1177. There may be in the superior court one deputy clerk and thirteen assistant clerks. The salary of the clerk is six thousand dollars a year; the salary of the deputy clerk is five thousand dollars a year; the salaries of eight of the assistant clerks are two thousand five hundred dollars a year each; the salary of one of the assistant clerks is two thousand dollars a year; the salary of one of the assistant clerks is eighteen hundred dollars a year; the salary of one of the assistant clerks is fifteen hundred dollars a year, and the salaries of two of the assistant clerks are twelve hundred dollars a year each; the salaries of the stenographers are two thousand five hundred dollars a year each; the salaries of the attendants or officers are twelve hundred dollars a year each. But the salaries of the persons appointed after May twenty-nine, eighteen hundred and eighty, to the positions of clerk, deputy-clerk, assistant clerks, or attendants or officers, to said court shall be as follows: of the clerk, four thousand five hundred dollars; of the deputy clerk, two thousand dollars, and of the assistant clerks, one thousand five hundred dollars each; of the attendants or officers, one thousand dollars each, and such salaries shall be all that the persons holding such offices respectively shall be entitled to receive from the treasury of the city for any and all services rendered to the city or county during the term for which such salary shall be received.

Title 4.—The Surrogate.

1871, ch. 239, §1,
Comp. 1293.
Official bond of
surrogate.

§ 1178. Every person hereafter appointed or elected to the office of surrogate shall, within twenty days after receiving notice of such appointment or election, execute to the people of this State, with two or more sufficient securities, being resident freeholders, a joint and several bond, conditioned for the faith-

ful performance of his duties, and for the application and payment of all moneys and effects that may come into his hands as such surrogate in the execution of his office. The said bond shall be in the penal sum of fifty thousand dollars. It shall be properly acknowledged by all the persons who execute the same, and the sureties therein shall justify, in the aggregate, in double the penalty of the bond. Every such bond shall be filed with and recorded by the clerk of the county, and such record, or a certified copy thereof, shall be evidence of the same force and effect as the original bond, in any action or proceeding against such surrogate or his sureties.

§ 1179. The term of office of the persons who shall hereafter be elected to the office of surrogate shall be six years.

1869, ch. 292, §1.
Comp. 1298.

§ 1180. In case a vacancy shall occur in said office by death, resignation, or otherwise, the board of aldermen are authorized to fill such vacancy until the general election next ensuing the happening of such vacancy, when an election shall be had to fill the unexpired term of the officer whose term had so become vacant.

1847, ch. 488, §3.
Comp. 1385.
Provision in
case of
vacancy.

§ 1181. The surrogate shall receive for his services as such a yearly salary of twelve thousand dollars, which shall be paid in equal monthly payments.

1869, ch. 292, §1.
Comp. 1298.

§ 1182. The assistants appointed by the surrogate of the city and county of New York, pursuant to law, shall have power, during the term of their appointment, to administer and certify oaths and affirmations in all cases in which said surrogate is authorized to administer the same. No such assistant shall perform any service until he shall have taken an oath of office before the clerk of the city and county of New York in the form prescribed by law in cases of other public officers, which oath shall be thereupon subscribed and filed in said clerk's office.

1850, ch. 201, §§1, 3.
Comp. 1296.
Assistants to
administer
oaths.

Oath.

§ 1183. In the county of New York the court of common pleas for that city and county at a special term thereof must, upon the presentation of proof of its authority, as prescribed in the next section, exercise all the powers and jurisdiction of the surrogate's court, as follows :

Co. Civ. Proc.
§2486.
1881, ch. 535, §1.
Common pleas
when to exer-
cise powers of
surrogate.

1. Where the surrogate is precluded or disqualified from acting with respect to a particular matter, it must exercise all the powers and jurisdiction of that court with respect to that matter.

2. Where the office of surrogate of the county is vacant, or the surrogate is disabled by reason of sickness, absence, or lunacy, it must exercise all the powers and jurisdiction of that court until the vacancy is filled or the disability ceases, as the case may be.

§ 1184. The authority of the court of common pleas to act as prescribed in the last section, must be proved in one of the following modes:

Co. Civ. Proc.
§2487.
Proof of
authority.

1. Where the surrogate is disqualified or precluded from acting in a particular matter, that fact may be proved by the surrogate's certificate thereof; or, by affidavit or oral testimony.

2. The fact that the surrogate is so disqualified or precluded, or that he is disabled, or that the office is vacant, and also the authority of the officer, or of the court, as the case may be, to act in his place, may be proved, and are deemed conclusively established, by an order of the general term of the supreme court, held within the department.

Co. Civ. Proc.
§2488.
Order of general term as to disability, etc., of surrogate.

§ 1185. An order may be made, as prescribed in subdivision second of the last section, upon or without notice, as the general term thinks proper. It must recite the cause of making thereof; it must designate the court empowered to discharge the duties of the office of surrogate; and, if it relates to a particular matter only, it must designate that matter. Where the office of surrogate is vacant, or the surrogate is disabled by reason of lunacy, the attorney-general, if directed by the governor, must, or the district-attorney, upon his own motion, may, apply for the order; and the general term must grant it upon his application. The general term may also grant the order, upon the application of a party, or a person about to become a party, to any special proceeding in the surrogate's court. Where the surrogate is sick or absent, the granting of the order rests in the discretion of the court, and its effects may be qualified, as the court thinks proper.

Id. §2490.
How order or appointment superseded.

§ 1186. Where an order is made by the general term, as prescribed in the last two sections, for any cause except a vacancy in the office of surrogate, it may be revoked, without prejudice to any proceedings theretofore taken by virtue thereof, by the general term of the department embracing the surrogate's county, upon proof that it was improvidently made, or that the cause of making it has become inoperative. Such an order or appointment, made upon the ground that the surrogate's office is vacant, is superseded, without any formal revocation, by the filling of the vacancy. After the order or appointment is revoked, or the vacancy is filled, as the case may be, the unfinished business, in any proceedings taken by virtue of the order or appointment, must be transferred to, and may be completed by, the surrogate, in the same manner and with like effect as where a new surrogate completes the unfinished business of his predecessor.

Id. §2490.
Proceedings in court of common pleas.

§ 1187. In a special proceeding cognizable before a surrogate, taken in the court of common pleas, the seal of the court in which it is taken must be used, where a seal is necessary. The special proceedings must be entitled in that court; and the papers therein must be filed or recorded, as the case may be, and issues therein must be tried as in an action brought in that court. The

clerk of that court must sign each record which is required to be signed by the surrogate or the clerk of the surrogate's court. The issuing of a citation may be directed, and any order intermediate the citation and the decree may be made, by a judge of the court.

§ 1188. The court may, at any time, in its discretion, upon being satisfied that the reason for the exercise of its powers and jurisdiction has ceased to operate, make an order to transfer to the surrogate's court any matter then pending before it. Such an order operates to transfer the same accordingly. Immediately after such a transfer, or after the revocation of the order of the general term, as prescribed in the last section but one, the surrogate must cause entries to be made in the proper book in his office, referring to all the papers filed, and orders entered, or other proceedings taken, in the court of common pleas, and he may cause copies of any of the orders or papers to be made, and recorded or filed in his office, at the expense of the county.

Co. Civ. Proc.
§2491.
Transfer of
proceedings to
surrogate's
court.

§ 1189. The surrogate must, at his own expense, make and file in the office of the county clerk, between the first and twentieth days of January in each year, a report containing a statement, verified by his oath, of all fees received or charged by him for services or expenses since the last report, and of all disbursements chargeable against the same, or to the county, stating particularly each item thereof.

Co. Civ. Proc.
§§2501, 2502.
Surrogate to
report fees.

§ 1190. The surrogate of the county of New York may sign decrees, letters testamentary, of administration and guardianship, and orders to show cause, during the month of August or such other month as he shall designate for his vacation, whenever he shall be passing such vacation within the State.

1881, ch. 535, §2.

§ 1191. The surrogate may appoint, and at pleasure remove, as many clerks for his office, to be paid by the county, as the board of aldermen authorize him so to appoint. The board of aldermen must fix the compensation of the clerk or clerks so appointed, and may authorize them, or either of them, to receive, for their or his own use, the legal fees for making copies of any record or paper in the office of the surrogate. The surrogate may appoint, and at pleasure remove, as many additional clerks, to be paid by him, as he thinks proper.

Co. Civ. Proc.
§2509.
Clerks in surro-
gate's office.

§ 1192. A citation, notice, or other paper in the surrogate's court, directed to be published by the Code of Civil Procedure, or by an order made pursuant to a provision therein contained, must, in addition to the other publication thereof required by law, be published in the newspaper printed at Albany, in which legal notices are required by law to be published; where the special proceeding is instituted in the surrogate's court of said

Co. Civ. Proc.
§2530.
Publication of
notices, etc.

county or the order for publication is made by the surrogate thereof.

Id. §2512.
Stenographer
for surrogate's
court.

§ 1193. The surrogate must appoint, and may, for cause, remove a stenographer for his court, who is entitled to a salary fixed by law, and to be paid as the salaries or clerks in the surrogate's office are paid.

Co. Civ. Proc.
§2543.

§ 1194. The minutes of testimony taken in proceedings and written out by the stenographer must be bound, at the expense of the county, in volumes of convenient size and shape, indorsed "stenographic minutes" and numbered consecutively. Upon the record of a decree made in any contested matter, the surrogate must cause to be made a minute, referring to each volume of the stenographic minutes, and to the pages thereof, containing any testimony relating to the matter.

1891, ch. 535, §5.

§ 1195. The surrogate may, on written consent of all the parties appearing in a probate case, appoint a referee to take and report the testimony therein.

Co. Civ. Proc.
§2547.
Trial by jury,
when ordered.

§ 1196. The surrogate may, in his discretion, make an order, directing the trial by a jury, in the court of common pleas, of any controverted question of fact arising in a special proceeding for the disposition of the real property of a decedent, as prescribed in title fifth of chapter eighteen of the Code of Civil Procedure. The order must state, distinctly and plainly, each question of fact to be tried; and it is the only authority necessary for the trial.

Co. Civ. Proc.
§2554.

§ 1197. The proceedings prescribed in title twelfth of chapter seventeen of the Code of Civil Procedure, if founded upon a decree of the surrogate directing the payment of money, must be taken as if the decree was a judgment of the court of common pleas.

Co. Civ. Proc.
§2588.
Award of jury
trial upon re-
versal in pro-
bate cases.

§ 1198. Where the reversal or modification of a surrogate's decree by an appellate court is founded upon a question of fact, the appellate court must, if the appeal was taken from a decree made upon a petition to admit a will to probate, or to revoke the probate of a will, make an order directing the trial, by a jury, of the material questions of fact arising upon the issues between the parties. Such an order must state, distinctly and plainly, the questions of fact to be tried; and must direct the trial to take place in the court of common pleas.

1891, ch. 535, §12.

§ 1199. The public administrator shall have preference in the right to letters of administration, after the next of kin over creditors and all other persons.

Co. Civ. Proc.
§2672.
Deposit of
money by
temporary ad-
ministrator.

§ 1200. A temporary administrator must, within ten days after any money belonging to the estate comes into his hands, deposit it in a domestic incorporated trust company, having its principal office or place of business in the city of New York, and

either specially approved by the surrogate, or designated, in the general rules of practice, as a depository of funds paid into court.

§ 1201. If a temporary administrator neglects to make a deposit, as prescribed in the last section, within the time therein limited, the surrogate must, upon the application of a creditor or person interested in the estate, accompanied with satisfactory proof of the neglect, make an order, directing him to do so forthwith, or to show cause why a warrant of attachment should not issue against him. The order must be made returnable three days after issuing it; and it must be served upon the temporary administrator, at least two days before the return day thereof, either personally or by leaving a copy thereof within the State, at his dwelling place, or his office for the regular transaction of business in person; or, if it cannot be served in either of those methods, by serving it in such other manner as the surrogate directs.

Id. §2679.
Proceedings
where he
neglects to
deposit it.

§ 1202. If the surrogate is absent, the petition of an executor or administrator for the discovery of property alleged to be withheld or concealed or refused to be exhibited may be presented to a justice of the supreme court or a judge of the court of common pleas or superior court. The officer to whom it is so presented has the same power as the surrogate with respect to all the proceedings, and must issue a citation and an order, returnable before him, or as prescribed in the last two sections. He may, at any stage of the proceedings, make an order transferring them to the surrogate, who must thereupon complete them in like manner as if he had issued the citation.

Co. Civ. Proc.
§2709.
Id.; certain
officers may
act in surro-
gate's absence.

§ 1203. Where the surrogate seasonably certifies in writing to the board of aldermen, that the examination of inventories and accounts of guardians required by law to be made annually cannot be made by him, or by the clerk of the surrogate's court or by any clerk employed in his office and paid by the county, the board must provide for the compensation of a suitable person to make the examination.

Co. Civ. Proc.
§2844.

§ 1204. The board of aldermen are authorized and empowered to require from the assistants of the surrogate, such security for the faithful performance of their duty as to the said board may seem necessary and proper.

1842, ch. 432, §13,
as amended
1853, ch. 610,
Comp. 1441.
Assistants to
give security.

Title 5.—The Marine Court.

§ 1205. The marine court of the city of New York is a court of record.

Co. Civ. Proc.
§2, Comp. 1263.

§ 1206. The term of office of the justices shall be six years. The justices in office when this act shall take effect shall con-

1870, ch. 532, §2,
Comp. 1300.

Court to consist of six justices.
Terms of office, and when elected.

1862, ch. 389, §3.
Comp. 1300.
1849, ch. 28.
7 Hun, 308.

1870, ch. 582, §4.
Comp. 1301.

1862, ch. 389, §5.
Comp. 1300.
Compensation of clerk.

Co. Civ. Proc.
§315.
Comp. 1301.
Unchanged.
Jurisdiction.

As amended
1877, ch. 416.

Co. Civ. Proc.
Id. §316.
Comp. 1302.
Unchanged.
The last section limited.
See 52 How. 94.

tinue therein until the expiration of the terms for which they were respectively elected, subject to removal in cases now established by law. Two justices shall be elected at the general election to be held in the year eighteen hundred and eighty-one, and the same number at the general election in each second year thereafter. Any vacancy shall be filled by appointment by the governor, and the person so appointed shall hold the office until the commencement of the political year next succeeding the first annual election after the happening of the vacancy at which such officer could be by law elected. The annual salary of each of the justices is ten thousand dollars.

§ 1207. The clerk shall receive an annual compensation, which shall not be diminished during his term of office and which shall be in lieu of all fees and perquisites.

§ 1208. The jurisdiction of the marine court extends to the following cases :

1. An action against a natural person, or against a foreign or domestic corporation, wherein the complaint demands judgment for a sum of money only, or to recover one or more chattels, with or without damages for the taking or detention thereof.

2. An action to foreclose or enforce a lien upon real property in the city of New York, created, as prescribed by statute, in favor of a person, who has performed labor upon, or furnished materials to be used in the construction, alteration, or repair of a building, vault, wharf, fence, or other structure ; or who has graded, filled in, or otherwise improved a lot of land, or the sidewalk or street in front of or adjoining a lot of land.

3. An action to foreclose or enforce a lien, for a sum not exceeding two thousand dollars, exclusive of interest, upon one or more chattels.

4. The taking and entry of a judgment, upon the confession of one or more defendants, where the sum, for which judgment is confessed, does not exceed two thousand dollars, exclusive of interest from the time of making the statement, upon which the judgment is entered.

§ 1209. The jurisdiction conferred by the last section is subject to the following limitations and regulations :

1. In action wherein the complaint demands judgment for a sum of money only, the sum, for which judgment is rendered in favor of the plaintiff, cannot exceed two thousand dollars, exclusive of interest, and costs as taxed ; except where it is brought upon a bond or undertaking, given in an action or special proceeding in the same court, or before a justice thereof ; or to recover damages for a breach of promise of marriage, or where it is a marine cause, as that expression is defined in the

next session. Where the action is brought upon a bond or other contract, the judgment must be for the sum actually due, without regard to a penalty therein contained; and, where the money is payable in installments, successive actions may be brought for the installments as they become due.

2. In an action to recover one or more chattels, a judgment cannot be rendered in favor of the plaintiff for a chattel or chattels, the aggregate value of which exceeds two thousand dollars. As amended 1879, ch. 542.

3. The court has not jurisdiction of an action against an executor or administrator, in his representative capacity. But this subdivision does not prevent the court from continuing an action against an executor or administrator, or from substituting an executor or administrator in place of a defendant in an action, in a case where it is prescribed that a continuance or substitution may be made.

§ 1210. The following actions are styled in this title, marine causes, and the court possesses the same jurisdiction of such an action as the supreme court of the State: Co. Civ. Proc. §317, Comp. 1802. Jurisdiction in marine causes.

1. An action in favor of a person, belonging to a vessel in the merchant service, against the owner, master, or commander thereof, for the reasonable value of services, or for the breach of a contract to pay for services, rendered or to be rendered on board of the vessel, during a voyage, wholly or partly performed, or intended to be performed by it.

2. An action in favor of or against a person, belonging to or on board of a vessel in the merchant service, to recover damages for an assault, battery, or false imprisonment, committed on board the vessel, upon the high seas, or in a place without the United States.

But this section does not confer upon the marine court authority to proceed as a court of admiralty or maritime jurisdiction.

§ 1211. Application for the removal of a person from real property, as prescribed in title two of chapter seventeen of the code of civil procedure, may, if the property or a portion thereof is situated in the city, be made to a justice of the marine court. Co. Civ. Proc. §2234.

§ 1212. The court has not, nor has either of the justices thereof, power to naturalize an alien. Co. Civ. Proc. §318, Comp. 1802. No power to naturalize aliens.

§ 1213. Said court shall continue to exercise the jurisdiction and powers vested in it by law on September first, eighteen hundred and seventy-seven, according to the course and practice of the court, except as otherwise prescribed by the code of civil procedure, or acts passed subsequent to said act. Co. Civ. Proc. §4. Comp. 1268.

§ 1214. The supreme court, at a term held in the first judicial district, may, by an order made at any time after joinder of an Id. §319, Comp. 1802.

Removal of action to supreme court from marine court.

issue of fact, and before the trial thereof, remove to itself an action brought in the marine court, for the purpose of changing the place of trial thereof. Where an order for removal is made, as prescribed in this section, the place of trial must be changed by the same order to another county, and the subsequent proceedings therein must be the same as if the action had been originally brought in the supreme court. The provisions of sections three hundred and forty-four, three hundred and forty-five, and three hundred and forty six of the code of civil procedure apply to an application to remove such an action, and to the proceedings upon and subsequent to the removal, as if the marine court was specified in those sections in place of the county court, and justice thereof in place of the county judge.

Co. Civ. Proc. §320, as amended 1877, ch. 416, Comp. 1308.
Justices; their general duties.

§ 1215. The court consists of six justices, one of whom is the chief justice of the court. Each justice must perform his share of the labors and duties appertaining to the office. One of the justices must attend at the chambers of the court, from ten o'clock in the morning until four o'clock in the afternoon of each day, except Sunday, a public holiday, or a day upon which the inhabitants of the city of New York generally refrain from business. Each justice, while in the rooms of the court, and not actually engaged in the performance of other official duties, must act upon any application for his official action properly made to him. The justice assigned to a trial term or a special term must remain in attendance until the day calendar is disposed of, or for such other time as is reasonable.

Id. §321.
How suspended from office.

§ 1216. Where it appears presumptively, to the satisfaction of the governor, that a justice of the court has been guilty of corruption, or other gross misconduct in office; or habitually neglects to perform his share of the labors and duties appertaining to the office; or is incapable of properly discharging the same; the governor may, in his discretion, make an order suspending that justice from the exercise of the duties of his office, and directing that his compensation cease. Such an order must recite the grounds upon which it is made; and it remains in force, unless it is sooner revoked by the governor, until the final adjournment of the next session of the legislature; or, if the legislature is then in session, until the final adjournment of that session.

Id. §322.
Chief justice, how designated; his general duties, etc.

§ 1217. The justices of the court, or a majority of them, must, from time to time, as a vacancy occurs in the office of chief justice, designate one of their number to be chief justice. A certificate of the designation, under the hands of the justices making the same, must be filed in the office of the clerk of the court. The person so designated shall be chief justice during his term of office. The chief justice has the like authority, within the

jurisdiction of the court, as a presiding justice of the supreme court; and when he is present and is not disqualified, he must preside at a general term.

§ 1218. The justices of the court, or a majority of them, may, from time to time, establish rules of practice for the court, not inconsistent with the code of civil procedure, or with the general rules of practice established as prescribed in section seventeen thereof. The latter govern the practice in the court, as far as they are applicable thereto.

Co. Civ. Proc.
§ 323, Comp.
1304.
Justices may
make rules.

§ 1219. The court is always open for the transaction of any business, for which notice is not required to be given to an adverse party. The justices of the court, or a majority of them, from time to time, must appoint, and may alter, the times of holding general, special, and trial terms of the court. They must prescribe the duration of the terms; designate the trial terms at which jurors are required to attend; and assign the justice or justices to preside and attend at each of the terms so appointed. In case of the inability of a justice to preside or attend, another justice may preside or attend in his place. Each trial and special term must be held by one justice, and each general term by at least two justices. Two or more general, special, or trial terms may be appointed to be held at the same time. The concurrence of two justices is necessary to pronounce a decision at a general term. If two do not concur, a reargument must be ordered. The justices holding a general term may order reargument, before themselves, or at a subsequent general term, of a cause heard by them, or at a previous general term.

Id. § 324.
Court, when
open; justices
to designate
terms; routine
of business at
the terms, etc.

§ 1220. Each term so appointed must be held at the city hall, except that auxiliary or additional parts, for the transaction of any business specified in the appointment may be held elsewhere within the city of New York, as designated in the appointment. An appointment must be published in two newspapers, published in the city of New York, at least once in each week, for three successive weeks, before a term is held in pursuance thereof.

Co. Civ. Proc.
§ 325, Comp. 1304.
Terms, where
held; publica-
tion of appoint-
ments.

§ 1221. Each of the justices may, within the city of New York, administer an oath, or take a deposition, or the acknowledgment or proof of the execution of a written instrument, and certify the same in like manner and with like authority and effect as a justice of the supreme court.

Id. § 326.
Justices may
take oaths,
acknowledg-
ments, etc.

§ 1222. In an action brought in the court, an order cannot be made, or a warrant of attachment granted, by an officer other than a justice of the court: and each provision of the code of civil procedure, which empowers an officer, other than a judge of the court in which an action is brought to make an order

Id. § 327.
Orders, etc.,
how made.

therein, must be construed as being exclusive of an action brought in the marine court.

Id. §328,
as amended
1877, ch. 416.
Clerk, deputy
clerk, and
assistants.

§ 1223. The court has a clerk, who is appointed, and may be removed, at pleasure, by the justices thereof, or a majority of them. He must by a written instrument under his hand, filed in his office, appoint, and may at pleasure remove, three deputy clerks and not more than ten assistants. The clerk is responsible for the faithful discharge of his duty, by each deputy clerk and each assistant. The clerk, each deputy clerk, and each assistant, is entitled to a salary, fixed and to be paid as prescribed by law.

Co. Civ. Proc.
§329,
as amended
1877, ch. 416.
General duties
of deputy clerk

§ 1224. The clerk, and also each deputy clerk, before he enters upon the duties of his office, must subscribe, and file in the office, of the clerk of the city and county of New York, the constitutional oath of office. The deputy clerk has all the powers and may perform all the duties of the clerk, when the office of clerk is vacant, or at the clerk's office, when the clerk is absent therefrom, or at a term or sitting of the court which the deputy clerk attends.

Id. §330,
as amended
1877, ch. 416.
Special deputy
clerks.

§ 1225. The clerk may designate as many of his assistants as the justices of the court, or a majority of them, may deem necessary, as special deputy clerks. Each special deputy clerk possesses, in the absence of the clerk and a deputy clerk, the same powers as the clerk, at any sitting or term of the court which he attends, with respect to the business transacted thereat.

Id. §331.
Clerk to ac-
count monthly
for fees, and
pay over the
same.

§ 1226. The clerk must receive, for the use of the city of New York, the fees allowed by law. He shall not perform any service, for which a fee is allowed by law, until the fee therefor is paid to him. He must, on the first day of each month, or within three days thereafter, render to the comptroller of the city an account, under oath, of all fees received, directly or indirectly, during the preceding month, by him, or by a deputy clerk, or either of his assistants, for any official service; and he must, at the same time, pay the same into the treasury of the city of New York. When the return and payment are so made, the clerk is entitled to receive his compensation for the period included in the return. He is not entitled to compensation for a period for which he has not made his return and payment.

Co. Civ. Proc.
§332, Comp.
1306, as amend-
ed 1877, ch. 416.
Stenographers.

§ 1227. The clerk of the court must appoint three stenographers of the court, and may at pleasure remove either of them. The justices of the court, or a majority of them, must, from time to time, assign each of the stenographers to duty at the trial terms. Each stenographer is entitled to a salary, fixed and to be paid as prescribed by law. He must attend each term to which he is assigned.

§ 1228. The clerk of the court from time to time must appoint, and may at pleasure remove, an official interpreter of the court, who is entitled to a salary, fixed and to be paid as prescribed by law. Before entering upon his official duties, he must subscribe, and file in the office of the clerk of the city and county of New York, the constitutional oath of office. He must attend any trial or special term of the court, where his services are required; and the justices of the court, or a majority of them, may, by order, regulate his attendance.

Id. §333,
as amended
1877, ch. 416.
Interpreter.

§ 1229. If the official interpreter knowingly and willfully, falsely interprets any evidence, matter, or thing between a witness and the court, or a justice thereof, in the course of an action or special proceeding, he is guilty of perjury.

Id. §334.
Id.; penalty for
misconduct.

§ 1230. The clerk of the court must appoint, and may at pleasure remove, as many attendants upon the court as he deems necessary, not exceeding thirteen; the justices of the court, or a majority of them, may regulate their attendance. Each attendant is entitled to a salary, fixed and to be paid as prescribed by law.

Co. Civ. Proc.
§335,
as amended
1877, ch. 416.
Court may
appoint attend-
ants, etc.

§ 1231. The clerk, the deputy clerk, an assistant to the clerk, the official interpreter, or an attendant, shall not receive any fee or compensation, except his salary, for any official service performed by him.

Id. §336.
Clerks, inter-
preter, and
attendants not
to receive fees.

§ 1232. A justice of the court may, by an instrument under his hand, suspend a stenographer, or an officer specified in the last section, for a period not exceeding ten days from the filing thereof. Such an instrument must express the cause of the suspension; it must be filed in the office of the clerk of the city and county of New York; and it may be revoked, at any time before the expiration of the period of suspension, by an instrument filed in like manner, under the hand of the justice who executed the first instrument, or the hands of a majority of the justices of the court. Where such an instrument has been revoked, the officer shall not be again suspended for the same cause.

Id. §337,
as amended
1877, ch. 416.
Suspension of
an officer of the
court.

§ 1233. A mandate of the court can be executed only within the city of New York, except as follows:

Id. §338.
What mandates
may be exe-
cuted without
the city.

1. An execution upon a judgment rendered therein, for a sum exceeding twenty-five dollars, may be issued out of the court, tested in the name of the chief justice thereof, to the sheriff of any county, wherein the judgment has been duly docketed.

2. A subpoena may be served within either of the counties of Richmond, Kings, Queens, or Westchester.

3. A warrant to apprehend a witness for a failure to obey a subpoena may be executed by the sheriff of the city and county of New York, or a marshal of that city, within either of those counties.

4. An order duly made, in an action pending in the court, requiring the performance of an act by a party thereto, or by an officer, may be served upon a person bound to obey the order, and his obedience thereto may be required in any part of the State.

5. An order to show cause why a person should not be punished for a contempt of the court may be served by any person in any part of the State.

6. A warrant to apprehend, and bring before the court, a person charged with such a contempt, may be executed by the sheriff of the city and county of New York, or a marshal of that city, in any part of the State.

Co. Civ. Proc.
§339, Comp. 1306.
Direction and
execution of
mandates.

§ 1234. In an action brought in the court, an order of arrest, a warrant of attachment, an execution, or a requisition to replevy a chattel, must be directed to and executed by the sheriff. Any other mandate, which must have been directed to and executed by the sheriff of the city and county of New York, if it issued out of the supreme court, may, where it issues out of the marine court, be directed to and executed either by that sheriff or a marshal of that city, named therein. A marshal is entitled to the same fees as the sheriff, upon a mandate directed to him, or upon the service of a summons; and each provision of law, relating to the execution of a mandate by the sheriff, and the power and control of the court over the sheriff executing the same, applies to the marshal. The return of a marshal to such a mandate, or his certificate of the execution thereof, or of the service of any paper served by him, has the same force and effect as the like return and certificate of a sheriff.

Co. Civ. Proc.
§3268.

§ 1235. The defendant may require security for costs to be given where the plaintiff was, when the action was commenced, a person residing without the city.

Co. Civ. Proc.
§§1737, 1738.

§ 1236. In an action brought in the marine court to foreclose a lien upon a chattel, the court, or a judge thereof, has jurisdiction in a case provided by law to issue a warrant to the sheriff, commanding him to seize the chattel and safely keep it to abide the final judgment in the action.

Co. Civ. Proc.
§3165.
Summons.

§ 1237. The summons in an action brought in the court must state that the time within which the defendant must serve a copy of his answer is six days after the service thereof, exclusive of the day of service, except in one of the following cases:

1. A justice of the court may, upon satisfactory proof, by affidavit, that either the plaintiff or the defendant resides without the city of New York; or, where there are two or more plaintiffs, or two or more defendants, that all the plaintiffs or all the defendants reside without that city, direct by an order that the defendant be summoned to answer within a shorter time speci-

fied therein, not less than two days after the service of the summons, exclusive of the day of service; whereupon the summons must correspond to the order. The order must be indorsed upon or annexed to the summons, and a copy thereof must be delivered with a copy of the summons. The justice may, in his discretion, as a condition of granting the order, require the plaintiff to give an undertaking, with one or more sureties, to the effect that the plaintiff will pay any judgment which may be rendered against him in the action, not exceeding a sum specified in the undertaking, which must be at least two hundred dollars.

2. Where an order directing service of the summons without the city of New York, or by publication is granted, the summons must state that the time within which the defendant must serve a copy of his answer is ten days after the service thereof, exclusive of the day of service. If a summons, requiring the defendant to answer within a shorter time has been issued, as prescribed in this section, before an order specified in this subdivision is granted, the justice granting such an order may direct that the summons be amended accordingly, and thereupon the summons published, or served without that city, pursuant to the order, must correctly state the time.

§ 1238. The time within which a defendant in a case specified in section four hundred and seventy-nine of the code of civil procedure must demand a copy of the complaint, and the time within which the plaintiff must serve the same, after a demand thereof, as prescribed in that section, and the time within which a copy of a pleading, subsequent to the complaint, must be served; after the service of a copy of the preceding pleading, is the same number of days, as stated in the summons, within which the defendant is required to serve a copy of his answer, after service of the summons. But, except as otherwise prescribed in section thirty-one hundred and eighty-five of said act, a defendant, arrested before answer, has ten days after the arrest within which to demand a copy of the complaint or to serve a copy of his answer, as the case requires, and judgment must be stayed accordingly.

Co. Civ. Proc.
§3168.

§ 1239. The time for taking certain proceedings, in an action brought in the court, is as follows:

Co. Civ. Proc.
§3168.

1. Service of notice of non-acceptance of bail, within five days after the delivery, to the plaintiff's attorney, of certified copies of the order of arrest, return, and undertaking, as prescribed in section five hundred and seventy-seven of the code of civil procedure.

2. Service of notice of justification of the bail, within five days after service of the notice specified in subdivision first of this section.

3. Service of notice of exception to the sureties, in an undertaking given by the plaintiff, as security for the defendant's costs, within two days after service, upon the defendant's attorney, of a written notice of the filing thereof; and service of notice of the justification of the same, or new sureties, within two days after service of the notice of exception.

Co. Civ. Proc.
§3161.

§ 1240. The time for personal service of certain notices, in an action brought in the court, is as follows:

1. Notice of justification of the sureties, in an undertaking given by the plaintiff, as security for the defendant's costs, not more than two days.

2. Notice of an application for judgment in a case specified in section five hundred and thirty-seven of the code of civil procedure; notice of a motion to strike out a pleading in a case specified in section five hundred and thirty-eight of said act; notice of an application for judgment upon the defendant's default, or of the execution of a reference, or writ of inquiry, or of an assessment thereupon, as prescribed in section twelve hundred and nineteen of said act—not less than two days.

3. Notice of the justification of bail, not less than two nor more than ten days.

4. Notice of a motion, other than a motion specified in subdivision second of this section, not less than four days; but the court or a justice thereof may, upon an affidavit showing grounds therefor, prescribe a shorter time by an order to show cause.

5. Notice of trial of an issue of fact, or of an issue of law; notice of the hearing of an appeal, or of any other hearing, the time for serving which is not expressly prescribed in either of the foregoing subdivisions of this section, or elsewhere in this title—not less than five days.

6. Notice of taxation of costs, not less than two days; except where all the attorneys, serving and served with the notice, reside or have their offices in the city of New York, in which case one day's notice is sufficient.

Co. Civ. Proc.
§3162.

§ 1241. Notice of trial of an issue triable at a term of the court, or of the hearing of an appeal to the general term of the court, may be given for any day of the term. A note of issue must be filed at least two days before the day, or the commencement of the term, for which the notice of trial or hearing is given; and, if it relates to the trial of an issue of fact, or of law, it must, in addition to the matters specified in section nine hundred and seventy-seven of the code of civil procedure, state the day or the term for which the notice has been given. But this and the last section do not apply to a case where special provision is otherwise made in sections twelve hundred and fifty-one to twelve hundred and sixty, inclusive, of this act.

§ 1242. The time within which the decision of the court must be filed, in a case specified in section ten hundred and ten of the code of civil procedure, is ten days after the cause is finally submitted. The decision of the Court, in a case specified in section ten hundred and twenty-two of said act, is sufficient if it directs the judgment to be entered thereupon; but, if so required by a party appealing, the justice by whom the decision was made must, within ten days after the appeal is perfected and notice thereof and of the requirement is given to him, make and file with the clerk a special decision, stating separately the facts found and the conclusions of law.

Co. Civ. Proc.
§3173.

§ 1243. A counter-claim, specified in subdivision second of section five hundred and one of the code of civil procedure, cannot be interposed in an action brought in the court, unless it is of such a nature that the court has jurisdiction of an action founded thereupon; except that, in an action brought by an executor or administrator, any counter-claim may be interposed which could be interposed in a like action brought in the supreme court. A counter-claim may be interposed in an action brought in the court, without respect to the amount thereof, and judgment thereupon, in favor of the defendant, may be rendered for any sum.

Co. Civ. Proc.
§3174.

§ 1244. The court may, of its own motion, or upon the application of either party, without the consent of the other, by order, direct a reference, to determine and report upon a question of fact, arising upon a motion, in any stage of an action.

Co. Civ. Proc.
§3172.

§ 1245. A party to whom a sum is awarded, upon a trial, an assessment of damages, or the execution of a reference or writ of inquiry, may remit any portion thereof, and take judgment for the residue.

Co. Civ. Proc.
§3176.
Portion of verdict, etc., may be remitted.

§ 1246. Where it satisfactorily appears that a party, who is actually confined in jail by virtue of an order of arrest, or an execution against the person, issued in an action brought in the court, is physically unable to endure the confinement, and that he cannot procure bail, or the necessary sureties in a bond for the jail liberties, as the case requires, the court, or a justice thereof, may, in its or his discretion; by order, direct the sheriff to release him from custody. The sheriff must obey such an order. After such a release from an execution against the person, another execution against the person of the judgment debtor, cannot be issued upon the judgment; but the judgment creditor may enforce the judgment against property, as if the execution from which the judgment debtor was released had been returned without his being taken.

Co. Civ. Proc.
§3183.

§ 1247. An order, directing the service of a summons, either without the city of New York or by publication, may be granted

Co. Civ. Proc.
§3170.

Service of summons without the city or by publication.

by the court, or by a justice thereof; but only in a case where a warrant of attachment has been issued, as prescribed in the last section, and personal service of the summons cannot be made, with due diligence, within that city. The plaintiff, when he applies for such an order, must show by affidavit, to the satisfaction of the court or justice, that the case is within this section. Where an order is granted, as prescribed in this section, service of the summons without that city may be made, as directed in the order, either within or without the State. Sections four hundred and forty to four hundred and forty-five, both inclusive, sections six hundred and thirty-eight, seven hundred and seven, and seven hundred and eight of the code of civil procedure apply to the service or publication, pursuant to such an order, and to the proceedings relating to the same, and subsequent thereto; substituting the words, "the city of New York," in place of the words, "the State," wherever the latter words occur. If the defendant is a resident of the city of New York, the order must also direct that a copy of the summons, complaint, and order be left at his residence, specifying it, with a person of suitable age and discretion, if, upon reasonable application, admittance can be obtained, and such a person found who will receive it; or if admittance cannot be so obtained, nor such a person found, by affixing the same to the outer door of the residence so specified.

Co. Civ. Proc.
§3169.

§ 1248. In order to entitle the plaintiff to a warrant of attachment against property, he must show by affidavit, to the satisfaction of the justice granting it, that a sufficient cause of action exists against the defendant, to recover damages for one or more causes specified in section six hundred and thirty-five of the code of civil procedure, to an amount stated in the affidavit; which, if the action is to recover damages for breach of a contract, must be stated over and above all counter-claims known to the plaintiff; and also that the case is within one of the following subdivisions:

1. That the defendant is a foreign corporation, or a domestic corporation whose principal place of business is not within the city of New York.
2. That the defendant is not a resident of the State.
3. That the defendant, being a resident of the State, is not a resident of the city of New York, and has not an office within that city where he regularly transacts business in person.
4. That the defendant, being an adult and a resident of that city, has departed therefrom, with intent to defraud his creditors or to avoid service of the summons; or keeps himself concealed therein, with the like intent; or that, after proper and

diligent effort to ascertain the place of the sojourn of such a resident adult defendant, the same cannot be ascertained.

5. That the defendant, being an adult, has removed, or is about to remove, property from that city, with intent to defraud his creditors, or that he has assigned, disposed of, or secreted, or is about to assign, dispose of, or secrete property, with the like intent.

6. That the defendant, being an adult and a resident of that city, has been continuously without the United States more than six months next before the granting of the warrant, and has not made a designation of a person upon whom to serve a summons in his behalf, as prescribed in section four hundred and thirty of said act, or a designation so made no longer remains in force.

§ 1249. At the time of issuing any attachment or warrant, the party applying therefor shall pay to the said clerk the sum of one dollar; and if a trial shall be had in the action so commenced the plaintiff therein shall pay to the said clerk an additional sum of two dollars and fifty cents, which said sums shall be received in lieu of all other fees now required by law to be paid the said clerk.

1837, ch. 295.
Comp. 1307.
Clerk's fees.

§ 1250. Where perishable property has been levied upon, by virtue of an execution or a warrant of attachment, the court may, upon the application of the officer making the levy, by order, direct the sale thereof, at such a time and upon such a notice as it deems proper, and thereupon the property must be sold accordingly.

Co. Civ. Proc.
§3175.
Perishable
property may
be sold.

§ 1251. In an action specified in subdivision second of section three hundred and seventeen of the code of civil procedure, the plaintiff may apply for an order of arrest, to accompany the summons, in the form and to the effect specified in the next section. If such an order is granted, the proceedings in the action must be conducted as prescribed in the following nine sections. The justices of the court, or a majority of them, may from time to time, by one or more general rules, attested by the hands of the justices making the same, and filed with the clerk, regulate the manner in which an application for such an order may be made, and the cases in which an undertaking may be dispensed with. Until regulations are so established, the justice to whom the application is made may, in his discretion, require or dispense with an undertaking thereupon.

Co. Civ. Proc.
§3177.
Arrest in cer-
tain marine
causes.

Court may reg-
ulate by gen-
eral rules.

§ 1252. The order of arrest, granted as prescribed in the last section, must require the sheriff to arrest the defendant, and to bring him forthwith before the court, at the chambers thereof; or if, when he is arrested, the court is not in session at chambers, to hold him to bail, in a sum specified in the order, for his

Co. Civ. Proc.
§3178.

personal attendance at the opening of the court, on the next day thereafter, when it is in session at the chambers thereof. The order must also direct that the defendant be summoned to answer the complaint in the action forthwith. Thereupon the summons must conform to the order.

Co. Civ. Proc.
§3179.

§ 1253. The sheriff, upon arresting the defendant, by virtue of such an order, must, at the same time, serve upon him the summons, and also a copy of the order of arrest, and of the papers upon which it was granted. He must forthwith bring the defendant before the court, at the chambers thereof, if the court is then in session at chambers; otherwise, unless bail is given, as prescribed in the next section, he must take the defendant to the jail of the city and county of New York for the confinement of prisoners in civil causes. The keeper thereof must confine the defendant therein. On the next day thereafter, when the court is in session at chambers, the sheriff must take the defendant from the jail and bring him before the court.

Co. Civ. Proc.
§3180.

§ 1254. The defendant may give bail, by delivering to the sheriff, a written undertaking to the plaintiff, in the sum specified in the order of arrest, executed by one or more sureties, to the effect that the defendant will attend in person at the opening of the court, at the chambers thereof, on the next day thereafter when it is there in session; or he may deposit with the sheriff the sum specified in the order of arrest. In either case, the sheriff must forthwith release him from custody.

Co. Civ. Proc.
§3181.

§ 1255. Where bail is given, as prescribed in the last section, the officer taking the acknowledgment of the undertaking must, if the sheriff so requires, examine under oath, to a reasonable extent, the persons offering to become bail, concerning their property and their circumstances. The defendant may give bail, or make the deposit immediately upon his arrest, at any hour of the day or night; and he must have reasonable opportunity to seek for and to procure bail, before being committed to jail. Where a deposit is made, the money deposited must, before the expiration of the next day thereafter, not being Sunday or a public holiday, be paid, by the sheriff, into court, to the credit of the action, by being paid directly to the chamberlain.

Id. §3182.
Bail or deposit
after return.

§ 1256. At any time after the return of the sheriff, and before final judgment, a justice of the court may admit a defendant in custody to bail, or allow him to make a deposit; and may direct his release, upon his giving bail or making the deposit accordingly. The sum to be deposited, or the sum specified in the undertaking of the bail, must be fixed, and the sureties in the undertaking must be approved, by the justice; who must be satisfied, by their examination, or by other proof, respecting their sufficiency. The undertaking must be to the effect that the

defendant will, at all times, render himself amenable to any mandate which may be issued, to enforce a final judgment against him in the action. Article fourth of title first of chapter seventh of the code of civil procedure applies where bail is given as prescribed in this or the last section.

§ 1257. Unless bail is given, or a deposit is made, as prescribed in the last three sections, the defendant must remain in the jail by virtue of the order of arrest, until final judgment in the action; and if the judgment is against the defendant, until the return of an execution against property, issued thereupon. But the court must direct him to be brought into court at the time of the trial; and it may, in its discretion, direct him to be brought into court at any other time. In either case, he must be taken from the jail and brought into court accordingly.

Id. §3183.
When and how
defendant to
remain in
custody.

§ 1258. The sheriff, after serving the summons and executing the order of arrest, must make a full return of his proceedings thereupon, to the court at chambers. The return must be made forthwith, unless the court is not then in session at chambers; in which case, it must be made immediately after the opening of the court, on the first day thereafter, when it is there in session. If the defendant has given bail, the undertaking of the bail must be returned, to be delivered to the plaintiff when the court so directs.

Co. Civ. Proc.
§3184.
Return of
summons, etc.

§ 1259. Unless both parties sooner appear, the court must wait one hour after the return; or, if the defendant has given bail, one hour after the opening of the court. As soon after the parties appear, or after the expiration of the hour, as the business upon which the court is then engaged will permit, the court must take up the cause. If the plaintiff does not then appear, a judgment dismissing the complaint, with costs, must be rendered. If the defendant does not then attend in person, the plaintiff must then make his complaint, and the defendant's default must be entered. If the plaintiff appears and the defendant attends in person, the pleadings must then be made, and issue must then be joined. The pleadings may be oral or written; if they are oral, the clerk must enter the substance thereof in the minutes. If either party desires a trial by a jury, he must demand the same, at the time of the joinder of issue; otherwise the issue must be tried by the court without a jury.

Id. §3185.
Proceedings
after return.

§ 1260. Where a trial by jury is duly demanded, the court at chambers must direct the issue to be tried, at a trial term, upon such notice as it deems proper, or without notice; it may also direct that the action have a preference upon the day calendar, either generally or for a particular day; and it may give such direction as it deems proper, with respect to filing a note of issue. Where a trial by jury is not duly demanded, or where

Id. §31.
Trial.

the defendant is in default, the evidence must then, or at such subsequent time, either at chambers or at a trial term or special term, as the court at chambers appoints, be given; and thereupon final judgment must be rendered. But the issue must be appointed to be tried within six days after the joinder thereof, unless both parties assent to a longer time; or a trial by jury is demanded, and there is no term of the court, at which it can be had, within that time. The trial cannot be adjourned, without the consent of both parties, beyond three calendar months from the joinder of issue.

Co. Civ. Proc.
§3187.

§ 1261. Sections twelve hundred and fifty-one to twelve hundred and sixty, inclusive, of this act, do not prevent the plaintiff from commencing, and conducting in the ordinary manner, an action, for a cause specified in subdivision second of section three hundred and seventeen of the code of civil procedure.

Id. §3100.

§ 1262. Sections four hundred and thirty-eight, six hundred and three, sections six hundred and eleven to six hundred and nineteen, both inclusive, sections six hundred and thirty-six, eight hundred and twenty-seven, ten hundred and thirteen, and ten hundred and fifteen of the code of civil procedure do not apply to an action or a special proceeding brought in the marine court, or before a justice thereof, or to any proceeding therein. Sections thirty-two hundred and sixty-eight and thirty-two hundred and sixty-nine of said act do not apply to actions known as marine causes, or where an undertaking has been given as prescribed in section thirty-one hundred and sixty-five of said act. A plaintiff in an action brought in the court, who has an office for the regular transaction of business in person within the city of New York, is deemed a resident of that city within the meaning of sections thirty-two hundred and sixty-eight and thirty-two hundred and sixty-nine of said act.

Id. §3167.

§ 1263. Section thirty-two hundred and twenty-one of the code of civil procedure applies to an action brought in the court and to the judgment and execution against the person and property of the judgment debtor.

Id. §3171.

§ 1264. The application to the court of article second of title third of chapter ninth of the code of civil procedure is subject to the following qualifications:

1. The words, "the city and county of New York, or either of the counties of Richmond, Kings, Queens, or Westchester," must be regarded as substituted in place of the words, "the State," wherever those words are used in that article, with respect to the locality of a witness.

2. Interrogatories, framed pursuant to that article, can be settled only by a justice of the court.

3. A commission, or order to take depositions, issued or

granted, pursuant to that article, may be executed either within or without the State.

§ 1265. Money paid into the court, pursuant to any provision of the code of civil procedure, must, unless the court otherwise directs, be paid directly to the chamberlain of the city of New York, to the credit of the cause in which it is paid. The court may direct that money paid into court in an action brought therein on a bond, mortgage, or other security, or public stock, in or upon which it has been invested or loaned, be transferred and delivered to a general or special guardian, committee, or other trustee, upon his giving, or if he has given, security satisfactory to the court, for the faithful execution of his trust; or that a bond, mortgage, or other security, or public stock, to be taken by or in the name of the guardian, committee, or other trustees; and be collected, invested, or loaned, as the court directs, or as prescribed in the general rules of practice.

Co. Civ. Proc.
§3164.

Co. Civ. Proc.
§§747, 748,
Comp. 1296.

§ 1266. An appeal to the general term of the court may be taken from a final judgment rendered therein, in a case where an appeal may be taken to the general term of the supreme court from a final judgment rendered therein, as prescribed in section thirteen hundred and forty-six of the code of civil procedure.

Co. Civ. Proc.
§3188.

§ 1267. An appeal to the general term of the court may also be taken from an interlocutory judgment rendered, or an order made, at a special term or a trial term thereof, or an order made by a justice thereof, out of court, in a case where an appeal may be taken to the general term of the supreme court from an interlocutory judgment rendered, or an order made, in like manner, as prescribed in sections thirteen hundred and forty-seven, thirteen hundred and forty-eight, and thirteen hundred and forty-nine of the code of civil procedure.

Co. Civ. Proc.
§3189.

§ 1268. An appeal, authorized by the last section, must be taken within ten days after service of a copy of the judgment or order appealed from, and a written notice of the entry thereof. In every other respect, titles first and fourth of chapter twelfth of the code of civil procedure, apply to and govern an appeal, taken as prescribed in either of the last two sections.

Co. Civ. Proc.
§3190.
Time to appeal
from order;
proceedings
thereupon.

§ 1269. An appeal may be taken to the court of common pleas for the city and county of New York from an actual determination made by the marine court of the city of New York, at a general term thereof, in either of the following cases:

Co. Civ. Proc.
§3191.
Appeal from
general term to
common pleas;
in what cases.

1. Where a final judgment had been rendered upon an appeal taken to the general term.

2. Where an order has been made granting a new trial. But an appeal cannot be taken from an order granting a new trial upon a case or exceptions, unless the notice of appeal contains an assent, on the part of the appellant, that if the order is

affirmed, judgment absolute may be rendered against the appellant.

Co. Civ. Proc.
§3192.

Id.; proceedings regulated.

§ 1270. Titles first and third of chapter twelfth of the code of civil procedure apply to and govern an appeal, taken as prescribed in the last section, except as otherwise expressly prescribed in the next two sections.

Co. Civ. Proc.
§3193.
Id.; within what time; where heard.

§ 1271. An appeal, authorized by the last section, must be taken within twenty days after service of a copy of the judgment or order appealed from, and a written notice of the entry thereof. The appeal must be heard at a general term of the appellate court.

Co. Civ. Proc.
§3194.

§ 1272. The judgment or order of the appellate court must be remitted to the court below, to be enforced according to law. Upon an appeal from an order granting a new trial, on a case or exceptions, if the appellate court determines that no error was committed in granting the new trial, it must render judgment absolute upon the right of the appellant; and thereupon an assessment of damages, or any other proceeding requisite to render the judgment effectual, may be had in the marine court.

Co. Civ. Proc.
§191.
Comp. 1827.
Appeals to court of appeals.

§ 1273. An appeal to the court of appeals cannot be taken in an action commenced in the marine court unless the court below allows the appeal by an order made at the general term which rendered the determination, or at the next general term, after judgment is entered thereupon.

Co. Civ. Proc.
§3195.

§ 1274. Upon an appeal to the court of appeals, the notice of appeal and undertaking must be filed with the clerk of the marine court, who must transmit the necessary papers to the court of appeals; and the judgment or order of the court of appeals must be remitted to and enforced by the marine court.

1876, ch. 413, §2.
Comp. 1825.
Salaries.

§ 1275. The clerks, officers, attendants, and interpreter of said court receive the following salaries: The clerk, four thousand dollars; one deputy clerk, three thousand five hundred dollars, and the other deputy clerks, three thousand dollars each. The assistant clerks, two thousand dollars each. The stenographers, two thousand dollars each. The attendants, twelve hundred dollars each, and the interpreter, fifteen hundred dollars. But the clerk, deputy clerks, and assistant clerks appointed after May twenty-ninth, eighteen hundred and eighty, shall receive respectively the following salaries: The clerk, three thousand dollars; the deputy clerks, two thousand dollars each, and the assistant clerks, one thousand five hundred dollars each; the attendants or officers, one thousand dollars each, and such salaries shall be all that the persons holding such offices or positions shall be entitled to receive from the treasury of said city for any and all services rendered to the city or county during the term for which such salary shall be received.

1880, ch. 521, §2.

§ 1276. Costs awarded to a party to an action in said court in the following cases must be at the following rates :

To the plaintiff for procuring an order of arrest, ten dollars.

To either party for one term at which the cause is necessarily on the calendar, ten dollars.

To either party upon an appeal to the general term taken from an interlocutory or final judgment, or from an order granting or refusing a new trial rendered or made in said court, or upon an appeal to the court of common pleas, or on an application to the general term for a new trial, or for judgment upon a verdict rendered subject to the opinion of the court, or where exceptions are ordered to be heard in the first instance at the general term before argument, twenty dollars ; for argument, forty dollars ; for one general term at which the cause is necessarily on the calendar, ten dollars.

§ 1277. Where an application is made to a court or a referee to adjourn a trial, the payment to the adverse party of a sum not exceeding five dollars, besides the fees of his witnesses, and other taxable disbursements, already made or incurred, which are rendered ineffectual by the adjournment, may be required, as a condition of granting the adjournment.

§ 1278. The clerk of said court shall collect and receive a stenographer's fee of one dollar and fifty cents for each and every trial had in said court.

Co. Civ. Proc.
§ 3251.
Costs.

Co. Civ. Proc.
§ 3255.

Costs upon ad-
journment of
trial.

1875, ch. 479, § 54.
Comp. 1817.
Stenographer's
fee, collection
of, by clerk.

Title 6.—The District Courts.

§ 1279. The city of New York is divided into ten judicial districts, in which there shall continue courts denominated district courts of the first, second, third, fourth, fifth, sixth, seventh, eighth, ninth, and tenth districts of that city respectively. They are courts not of record.

§ 1280. The said districts are as follows:

1. The first district embraces the first, second, third, fifth, and eighth wards.

2. The second district embraces the fourth, sixth, and fourteenth wards.

3. The third district embraces the ninth and fifteenth wards.

4. The fourth district embraces the tenth and seventeenth wards.

5. The fifth district embraces the seventh, eleventh, and thirteenth wards.

6. The sixth district embraces the eighteenth and twenty-first wards.

7. The seventh district embraces the nineteenth and twenty-second wards.

1857, ch. 344, § 1,
as amended
1865, ch. 688, § 1,
Comp. 1880.
Ten districts.
Co. Civ. Proc.
§ 3.

1857, ch. 344,
§ 2, as amended
1865, ch. 688,
§ 2, Comp. 1880.
1880, ch. 182, § 1.
Districts
located.
1880, ch. 182, § 1.

1869, ch. 377, § 2.

8. The eighth district embraces the sixteenth and twentieth wards.

9. The ninth district embraces the twelfth ward.

10. The tenth district embraces the twenty-third and twenty-fourth wards.

1869, ch. 377,
§§1, 2,
Comp. 1849.
1873, ch. 313, §5.
1874, ch. 329, §5,
Comp. 1847.
1881, ch. 514, §7,
Comp. 1829.
Election and
term of office
of justices.
67 N. Y. 521.

§ 1281. There shall be elected at the general election, to be held on the first Tuesday after the first Monday of November, eighteen hundred and eighty-seven, and once in every six years thereafter, by the electors of each of said districts, except the tenth, and in the tenth district on the first Tuesday after the first Monday of November, eighteen hundred and eighty-five, and once in every six years thereafter, a justice to hold the court therein. Such justice shall enter upon the performance of his duties on the first day of January succeeding his election, and his term of office shall be for six years. Vacancies occurring in the office of justice shall be filled at the then next ensuing election in the city, for the unexpired term, commencing on the first day of January next after said election. On the occurrence of a vacancy, the governor shall appoint a suitable person to hold until the first day of January succeeding such election.

1852, ch. 54 §1.
Comp. 1829.
Vacancies, how
to be filled.
1849, ch. 28.

§ 1282. The justices must be residents of the city, and must be at the time of their election or appointment of the degree of counsellors at law of the supreme court of this State.

1867, ch. 344, §5,
Comp. 1832.
Justices must
be counsellors.

§ 1283. The justices shall each receive for their services as such justices the sum of six thousand dollars per annum, which sum shall be paid by the proper officers of said city in equal monthly installments.

1875, ch. 480, §3,
Comp. 1858.
District court
Justices,
salary of.

§ 1284. District courts and justices have such jurisdiction in civil actions and special proceedings as is specially conferred upon them by statute, and no other.

Co. Civ. Proc.
§2861.

§ 1285. Except as otherwise prescribed in the next section, such courts have jurisdiction of the following civil actions:

Jurisdiction.
Co. Civ. Proc.
§2862.

1. An action to recover damages upon or for breach of a contract, expressed or implied, other than a promise to marry, where the sum claimed does not exceed two hundred and fifty dollars.

2. An action to recover damages for a personal injury, or an injury to property, where the sum claimed does not exceed two hundred and fifty dollars.

General civil
jurisdiction.

3. An action upon a bond conditioned for the payment of money, where the sum claimed to be due does not exceed two hundred and fifty dollars; the judgment to be rendered for the sum actually due. Where the sum secured by the bond is to be paid in installments, an action may be brought for each installment, as it becomes due.

4. An action upon a surety bond, taken, by any justice of the peace.

5. An action upon a judgment rendered in a court of a justice of the peace, or in a district court of the city of New York, or in a justice's court of a city, being a court not of record.

6. An action to recover one or more chattels, with or without damages for the taking, withholding, or detention thereof, where the value of the chattel, or of all the chattels, as stated in the affidavit made on the part of the plaintiff, does not exceed two hundred and fifty dollars.

7. An action to recover a penalty, given by the charter of the city, or any by-law or ordinance of the common council of the city, or to recover a penalty given by a statute of the State; where all the penalties, to recover which the action is brought, do not exceed two hundred and fifty dollars.

Co. Civ. Proc.
§3215.

8. An action in behalf of the people of the State, brought by the direction of the commissioners of public charities and correction, or of an overseer of the poor, upon a bastardy or abandonment bond, in a case where it is prescribed by a special statutory provision that such an action can be maintained in a district court.

9. An action upon the bond of a marshal of the city, in a case where a justice of the court of common pleas orders it to be brought therein.

1862, ch. 484, §7.
Comp. 1476.

10. An action to foreclose a lien upon a chattel, for a sum of money, in any case where such a lien exists at the commencement of the action, where the amount of the lien does not exceed the sum of two hundred and fifty dollars.

Co. Civ. Proc.
§1737.

11. An action to recover any penalty given by chapter five hundred and thirty-four of the laws of eighteen hundred and seventy-nine, entitled "an act for the preservation of moose, wild deer, birds, fish, and other game," or by any amendment thereof, where the offense was committed in said city or in an adjoining county, and the amount claimed does not exceed two hundred and fifty dollars.

1879, ch. 574, §83.

12. An action upon a surety bond taken in said court.

1813, ch. 86, §14
See Co. Civ.
Proc. §3215.

13. The jurisdiction of these courts extends to actions against a domestic corporation, or against a foreign corporation having an office in the city, where the sum claimed or the value of the chattel, or of all the chattels, as stated in the complaint, does not exceed two hundred and fifty dollars.

Neither of those courts has jurisdiction of any civil action, except as prescribed in this title.

§ 1286. Such courts cannot take cognizance of a civil action in either of the following cases:

Co. Civ. Proc.
§2863.
No jurisdiction
in certain cases.

1. Where the title to real property comes in question, as prescribed in title third of chapter nineteen of the code of civil procedure.

2. Where the action is to recover damages for an assault, battery, false imprisonment, libel, slander, criminal conversation, seduction, or malicious prosecution.

3. Where the action is brought against an executor or administrator, as such.

1819, ch. 71, §2,
Comp. 1850.
Certain actions.
1 E. D. S. 318.
1813, ch. 86, §106,
Comp. 1830.

4. Where the action is brought by any seaman or mariner, or other person belonging to any ship or vessel against the owner or owners, master or commander of any such ship or vessel, for or by reason of the non-performance or breach of any agreement or contract made by such seaman or mariner, or other person, with the said owner or owners, master or commander, for services, or compensation for service, on board of any ship or vessel, during any voyage performed, or in part performed, by such ship or vessel.

1858, ch. 834, §1,
Comp. 1850.

5. Where the action is against the mayor, aldermen, and commonalty of the city of New York.

Co. Civ. Proc.
§3216.

§ 1287. In an action, specified in subdivisions one to seven, inclusive, and subdivision ten of the last section but one, where the damages claimed, or the value of the chattel, or of all the chattels claimed, as stated in the complaint, exceeds one hundred dollars, the defendant may, after issue is joined, and before an adjournment has been granted upon his application, apply to the justice of the court in which the action is brought for an order removing the action into the court of common pleas. Such an order must be granted upon the defendant's filing with the clerk an undertaking, in a sum fixed by the justice, not exceeding twice the amount of the damages claimed, or twice the value of the chattel, or of all the chattels claimed, as stated in the complaint, with one or more sureties, to the effect that the defendant will pay to the plaintiff the amount of any judgment that may be recovered against him in the court of common pleas in the action so removed. From the time of the granting of the order, the court of common pleas has cognizance of the action; and the clerk of the district court must forthwith deliver to the clerk of the court of common pleas all process, pleadings, and other papers in the action, and certified copies of all minutes, entries, and orders relating thereto, which must be filed, entered, or recorded, as the case requires, in the latter's office.

Removal of
certain actions
into common
pleas.

Co. Civ. Proc.
§4, Comp. 1268.

§ 1288. Said courts shall continue to exercise the jurisdiction and powers vested in them by law on September first, eighteen hundred and seventy-seven, according to the course and practice of the court, except as otherwise prescribed by the code of civil procedure, or acts passed subsequent to said act.

1857, ch. 844, §4,
as amended
1862, ch. 484, §22,
Comp. 1831.

§ 1289. An action or proceeding of which these courts have jurisdiction must be brought:

1. In a court held in a district in which either the plaintiff or defendant, or one of the plaintiffs or one of the defendants resides, unless all the plaintiffs or all the defendants reside out of the city of New York, in which case the action or proceeding may be brought in either of the said districts. If the justice be either a party to the action or proceeding, or a necessary witness therein, or otherwise disqualified from trying the same, or there be a vacancy in the office of justice in that district, it may be commenced in any district except the one in which said justice holds the court.

Actions, how to be brought.
15 Abb. 416;
2 Daly, 401.

2. If the defendants be a corporation created by law, in a court held in the district in which the plaintiff, or either of them, resides, or in which it transacts its general business, or keeps an office, or has an agency established for the transaction of business, or is established by law, except the corporation of the city of New York, which, except as in the next section provided, may sue in either of said districts.

3. By plaintiffs not residing in the city and county of New York, in the district in which the defendant, or one of the defendants resides, and against a defendant or defendants not residing in said city and county, in the district in which the plaintiff, or one of the plaintiffs resides; but where all the parties reside out of said city and county, the action may be brought in any district. No person who shall have a place of business in the city shall be deemed a non-resident under the provisions of this title.

Where action may be brought.
2 Daly, 381.

1862, ch. 484, § 23
Comp. 1353.

§ 1290. All actions brought or commenced by or on behalf of the mayor, aldermen, and commonalty to recover a penalty or fine for a violation of any corporation ordinance, where the amount of such penalty or fine shall not exceed the sum of two hundred and fifty dollars, must be brought in a district court, held in a judicial district in which the violation of such corporation ordinance happened or occurred, and the justice of the same judicial district may direct any of the city marshals to collect the payment and make return in the same manner as now provided by law.

1879, ch. 71, § 1.
Comp. 1353.
Actions for penalties.

§ 1291. These courts must be held at the places in their respective districts now or hereafter appointed by the common council, and provided in accordance with law. But, in the first district the courts shall be held therein, or may be held in such rooms as may be provided therefor by said corporation, in the park of said city. The court in the third judicial district shall be held on the second floor of the building known as the courthouse in the third judicial district. The court in the eighth district shall be held at such suitable place within said district as the comptroller shall procure or cause to be procured, and as

1857, ch. 344, § 7.
Comp. 1352.
1869, ch. 377, § 4.
Comp. 1349.
Courts, when and where held.
1877, ch. 51, § 2.
Comp. 1193.

1860, ch. 300, § 2.

shall be provided in accordance with law. Said courts shall be held at such hours in every judicial day, or as often as the respective justices may direct, and must continue in session as long as the public interest requires.

1857, ch. 344, §6.
Comp. 1832.
In absence of
justice.
2 Hilt. 7, 281;
2 E. D. S. 340.

§ 1292. The justice elected in each district must hold the court therein, or if his office be vacant, or if he be absent from the usual place of holding his court, or unable from illness to hold the same, it may be held by a justice elected in another district, and whenever the justice fails to attend, the clerk may adjourn in the same manner as the justice might have done. If at any time before the trial has actually commenced, it shall appear to the satisfaction of the justice that he is a necessary witness on the trial of the cause, or is disqualified to try the same, he shall, by an order entered in the cause, order the papers in the same to be transferred to a district court for an adjoining district, and the latter court shall then have jurisdiction to hear and try the same.

1857, ch. 344, §43.
Comp. 1839
Causes, how
transferred.

1857, ch. 344, §8.
Comp. 1832.
Seals.

§ 1293. These courts have official seals furnished at the expense of the city, on which are engraved the arms of the State of New York, and the words "first district court" (or whatever district it may be), "New York city;" but nothing herein contained shall authorize such courts to issue certificates of naturalization.

Id. §2.
Actions con-
ducted by
parties, agents
or attorneys.

§ 1294. Parties in these courts may prosecute or defend in person, or by agent or attorney, except that the marshal who served the summons, order of arrest, warrant of attachment, or jury process cannot appear and act on the trial in behalf of either party.

Id. §11.
Appointment
of guardian.
3 E. D. S. 567.

§ 1295. When a guardian is necessary he must be appointed by the justice as follows:

1. If the infant be plaintiff, the appointment must be made before the summons is issued, upon the application of the infant, if he be of the age of fourteen years or upwards; if under that age, upon the application of some relative or friend. The consent, in writing, of the guardian to be appointed, and to be responsible for costs if he fail in the action, must be first filed with the clerk of the court.

2. If the infant be defendant, the guardian must be appointed at the time the summons is returned personally served, or before the pleadings. It is the right of the infant to nominate his own guardian, if the infant be over fourteen years of age, and the proposed guardian be present, and consent in writing to be appointed, otherwise the justice may appoint any suitable person who gives such consent.

Co. Civ. Proc.
§3270.

§ 1296. An action brought in either of these courts must be commenced by the voluntary appearance of, and joinder of issue by the parties, or by the service of a summons.

§ 1297. The summons must be addressed to the defendant by name, or, if his name be unknown, by a fictitious name, and must summon him to appear before the justice in the court at the court room thereof, and at the time specified therein, to answer the complaint of the plaintiff, and must state the amount for which the plaintiff will make judgment, if the defendant fail to appear and answer; it must be subscribed by the clerk of the court out of which the same issued, or by his deputy in the name of such clerk, excepting that in actions brought by the corporation attorney of the city as such attorney the summons may be issued by him in his own name as such attorney, and in such actions he shall not be required to pay to the clerk of the court the fees in the action, but shall account therefor to the city treasury.

Action to be commenced by service of summons.
1857, ch. 314, §12, as amended
1873, ch. 506, §1, Comp. 1333.
Form of summons.

§ 1298. The time mentioned in the summons for the appearance of the defendant and the time of service must be as follows:

Id. §13, as amended
1882, ch. 484, §20.

1. When the defendants or either of several defendants is not a resident of the city, the summons shall be returnable in not less than two nor more than four days from its date. Such summons shall be served at least two days before the day for appearance mentioned therein. When the plaintiff or either of several plaintiffs is not a resident of the city, the summons may be returnable as above provided, and if so returnable, it shall be governed by the above rule of service.

Return of summons.

2. In all other cases it must be returnable not more than twelve days from its date, and, except in the cases provided for in section thirteen hundred and seven of this act, must be served at least six days before the time of appearance.

§ 1299. When the plaintiff does not reside in the city, and has no place of business or of stated employment therein, or when the above is true of all the plaintiffs, before the issuing of the short summons as provided in the last section, there shall be filed with the clerk of the court a written undertaking, executed by one or more sureties, to the effect that if the defendant recover judgment such surety or sureties will pay all costs that may be awarded to defendant, not exceeding one hundred dollars; if the defendant shall recover judgment in such case and the execution thereon be returned unsatisfied, in whole or in part, the clerk shall deliver to the defendant such undertaking to be prosecuted according to law.

1857, ch. 314, §23, as amended
1882, ch. 484, §21, Comp. 1336.
When undertaking to be filed.

§ 1300. The summons must be served as follows:

1. If an action be against a corporation, by delivery of a copy to the president or other head of the corporation, or to the secretary, cashier, or managing agent thereof, or when no such officer resides in the city, to a director resident therein.

1857, ch. 314, §14, Comp. 1333.
Summons, how served.

2. If against a minor under the age of fourteen years by delivery of a copy to such minor, and also to his father, mother, or guardian, or if they be not within the city, then to any person having the care or control of such minor, or with whom he resides, or in whose service he is.

3. If against a person judicially declared to be of unsound mind, or incapable of conducting his own affairs, in consequence of habitual drunkenness, or for any other cause, and for whom a committee has been appointed, by delivery of a copy to such committee, and to the defendant personally.

4. In all other cases to the defendant personally, except as in this title otherwise specially provided.

Co. Civ. Proc.
§3208.

§ 1301. The summons, and, in a proper case, a copy of the complaint, or a precept in summary proceedings, may be served by any person not a party to the action; except that a person, other than a marshal, serving the same, must be first empowered to do so, either by the justice or in actions brought by the attorney to the corporation, on behalf of the city, by said attorney, as now prescribed by law. Proof of service thereof, by such a person, must be made by his affidavit; which must state the particular place, time, and manner of service, and that the affiant knew the person so served to be the person mentioned and described in the summons as defendant therein.

Id.; and proof
of service.

1862, ch. 484, §14;
1879, ch. 102, §1,
Comp. 1478.
See Co. Civ.
Proc. §3208.
Process, by
whom served.
1887, ch. 344, §22,
Comp. 1336.
Summons,
orders of arrest
and attach-
ments.
See 1866, ch. 758.

§ 1302. Every warrant of attachment or other process issued by or out of any said district courts, or by any justice or clerk thereof shall, except as hereinbefore provided, be served and executed by a marshal of said city.

§ 1303. The summons, orders of arrest, and attachments issued out of these courts shall not be served out of the city and county of New York. The action shall be deemed commenced at the time the summons is actually delivered for service. If the marshal or other person having the summons to serve cannot find the defendant so as to serve him therewith as required by this title, he must so return, and the clerk shall, at the request of the plaintiff, continue from time to time to issue others, until the defendant is served.

1887, ch. 344, §16,
Comp. 1334.
Co. Civ. Proc.
§3217.
Order of
arrest.

§ 1304. An order to arrest the defendant must or may be granted, directed to any marshal of said city, in the following cases:

1. In an action for the recovery of damages, in a cause of action not arising on contract, when the defendant is not a resident of the county, or is about to remove therefrom, or when the action is for a willful injury to person or property.

2. In an action for a fine or penalty, or for money or property embezzled or wrongfully misapplied or converted to his own use by a public officer, or an officer of a corporation, or an attor-

ney, factor, broker, agent, or clerk, in the course of his employment as such, or by any other person acting in a fiduciary capacity.

3. Where the defendant has been guilty of a fraud in contracting the debt, or incurring the obligation for which the action is brought, or in concealing or disposing of the property, for the taking, detention, or conversion of which the action is brought. 32 How. 239.

4. When the defendant has removed, concealed, or disposed of his property, or is about to do so, with intent to defraud his creditors.

5. When an arrest is authorized by special statute, in an action for a fine or penalty, or for a willful violation of duty.

6. When the action is for the recovery of a fine or penalty under the ordinances or by-laws of the corporation of the city of New York; but no female can be arrested, except for a willful injury to person or property.

§ 1305. Before an order of arrest shall issue, the party applying must prove to the satisfaction of the justice, by the affidavit of himself or some other person, the facts on which the application is founded, and the amount of his debt or claim over all payments and set-offs. The plaintiff must also execute and deliver to the clerk of the court a written undertaking, approved by the justice, with such approval indorsed thereon, with or without sureties, to the effect that if the defendant recover judgment, the plaintiff will pay to him all costs and extra costs that may be awarded to the defendant, and all damages which he may sustain by reason of the arrest, not exceeding the sum specified in the undertaking, which must be double the amount claimed; if the undertaking be executed by the plaintiff without security, he must annex thereto an affidavit that he is a resident and householder in the city of New York, specifying the street and number or other sufficient identification of the building where he resides, and worth double the sum specified in the undertaking, as well over and above all his debts and liabilities, as of his property exempt by law from execution; but the proof and security required by this section shall not be necessary where the order of arrest is issued for the violation of a by-law or ordinance of the corporation of the city of New York, or for the recovery of a penalty or a forfeiture under the statutes of this state where the corporation of the city of New York or any department of the government of said city authorized by statute to maintain an action or of the people of the State of New York are plaintiffs.

1857, ch. 334, § 21.
Comp. 1335.
Co. Civ. Proc.
§ 3219.
Undertaking
on issuing
order of arrest.

Co. Civ. Proc.
§ 3219.

1857, ch. 344, § 21.
Comp. 1336.

1879, ch. 534, § 39.
Comp. 1351.

Issue of war-
rants of arrest
in actions un-
der game law.
Search
warrants.

§ 1306. Any justice of a district court upon receiving sufficient security for costs on the part of the complainant, and sufficient proof by affidavit that any of the provisions of chapter five hundred and thirty-four of the laws of eighteen hundred and seventy-nine, entitled "an act for the preservation of moose, wild deer, birds, fish, and other game," have been violated by any person being temporarily within its jurisdiction, but not residing there permanently, or by any person whose name and residence are unknown, is hereby authorized to issue his warrant for the arrest of such offender, and to cause him to be committed or held to bail to answer the charge against him; and any such justice, upon receiving proof or probable cause for believing in the concealment of any game or fish mentioned in said act, and taken during any of the periods prohibited, and upon the complainants giving security, to be approved by such magistrate, for the damage which the defendant in the case may sustain in consequence of the complaint, provided he shall be found not to have violated the law, shall issue his search warrant, and cause search to be made in any house, market, boat, car, or other building, and for that end may cause any apartment, chest, box, locker, crate, or basket to be broken open and the contents examined.

Co. Civ. Proc.
§ 3218.
Proceedings
thereupon.

§ 1307. An order of arrest must direct that the summons accompanying it be made returnable immediately upon the arrest of the defendant, and it must specify a sum in which the defendant may be let to bail.

Co. Civ. Proc.
§ 3179.
Proceedings
on arrest.

§ 1308. The marshal, upon arresting the defendant, by virtue of such an order, must, at the same time, serve upon him the summons, and also a copy of the order of arrest, and of the papers upon which it was granted. He must forthwith bring the defendant before the court, if the court is then in session; otherwise, unless bail is given, as prescribed in section thirteen hundred and eleven, he must take the defendant to the jail of the city and county of New York for the confinement of prisoners in civil causes. The keeper thereof must confine the defendant therein. On the next day thereafter, when the court is in session, the marshal must take the defendant from the jail, and bring him before the court.

1857, ch. 344, § 17.
Comp. 1335.
Proceedings in
case justice is a
witness.

§ 1309. If it be made to appear to the satisfaction of the justice by the affidavit of the defendant that the justice is a material witness in the action, the marshal must immediately take the defendant before the justice of the next district court, who must take cognizance of the action, and proceed therein the same as if the order of arrest had been issued out of the latter court.

§ 1310. The marshal making the arrest must immediately give notice thereof to the plaintiff, and indorse on the order of arrest, and subscribe a certificate, stating the time of serving the same, and of his giving notice to the plaintiff.

1857, ch. 344, § 18.
Comp. 1835.
Plaintiff notified of arrest.

§ 1311. The defendant may give bail, by delivering to the marshal a written undertaking to the plaintiff, in the sum specified in the order of arrest, executed by one or more sureties, to the effect that the defendant will attend in person at the opening of the court, on the next day thereafter when it is there in session, or he may deposit with the marshal the sum specified in the order of arrest. In either case the marshal must forthwith release him from custody.

Co. Civ. Proc.
§ 3180.
Bail or deposit before return.

§ 1312. Where bail is given, as prescribed in the last section, the officer taking the acknowledgment of the undertaking must, if the marshal so requires, examine under oath, to a reasonable extent, the persons offering to become bail, concerning their property and their circumstances. The defendant may give bail, or make the deposit, immediately upon his arrest, at any hour of the day or night; and he must have reasonable opportunity to seek for and to procure bail, before being committed to jail. Where a deposit is made, the money deposited must, before the expiration of the next day thereafter, not being Sunday or a public holiday, be paid by the marshal into court, by paying the same directly to the chamberlain to the credit of the cause.

Id. § 3181.
The same.

§ 1313. At any time after the return of the marshal, and before final judgment, the justice may admit a defendant in custody to bail, or allow him to make a deposit; and may direct his release, upon his giving bail or making the deposit accordingly. The sum to be deposited, or the sum specified in the undertaking of the bail, must be fixed, and the sureties in the undertaking must be approved, by the justice; who must be satisfied, by their examination, or by other proof, respecting their sufficiency. The undertaking must be to the effect that the defendant will, at all times, render himself amenable to any mandate which may be issued, to enforce a final judgment against him in the action.

Co. Civ. Proc.
§ 3164.

Co. Civ. Proc.
§ 3182.

Id.; bail or deposit after return.

§ 1314. Unless bail is given, or a deposit is made, as prescribed in the last three sections, the defendant must remain in the jail by virtue of the order of arrest, until final judgment in the action; and if the judgment is against the defendant, until the return of an execution against property, issued thereupon. But the court must direct him to be brought into court, at the time of the trial; and it may, in its discretion, direct him to be brought into court at any other time. In either case he must be taken from the jail, and brought into court accordingly.

Co. Civ. Proc.
§ 3183.
Id.; when and how defendant to remain in custody.

1887, ch. 844, §19.
Comp. 1885.
Duty of
marshal.

§ 1315. The marshal making the arrest, or another marshal, by direction of the justice, must keep the defendant in custody, unless he shall give the security for his appearance, or until he is duly discharged by order of court; but in no case can such detention exceed forty-eight hours from the time of his first being brought before the justice, unless within that time the trial of the action be commenced, or unless it be delayed at the request of the defendant, or in consequence of his demand of a jury trial. If the trial of the action be delayed at the request of the defendant, or in consequence of his demanding a trial by jury, he must, unless he has given bail or made a deposit, file with the court the undertaking required by section thirteen hundred and sixty-three of this act, before such delay is granted to him.

Co. Civ. Proc.
§2905.
In what actions
warrants of at-
tachment may
be granted.

§ 1316. A warrant of attachment against the property of one or more defendants must be granted, upon the application of the plaintiff, as hereinafter prescribed, where the action is brought upon a judgment, or to recover for one or more of the following causes:

1. Breach of a contract, express or implied.
2. Wrongful conversion of personal property.
3. Any other injury to personal property, in consequence of negligence, fraud, or other misconduct.

Id. 2906.
What must be
shown to pro-
cure a warrant.

§ 1317. To entitle the plaintiff to such a warrant, he must show, by affidavit, to the satisfaction of the justice as follows:

1. That a sufficient cause of action exists against the defendant, to recover damages for one or more of the causes specified in the last section. If the action is upon a judgment, or to recover for breach of a contract, the affidavit must show that the plaintiff is entitled to recover a sum stated therein, over and above all counterclaims known to him.

2. That the defendant is either a foreign corporation, or not a resident of the State; or, if the defendant is a natural person, and a resident of the State, that he has departed, or is about to depart, from the county where he last resided, with intent to defraud his creditors, or to avoid the service of a summons, or keeps himself concealed, with the like intent; or if the defendant is a natural person, or a domestic corporation, that he or it has removed, or is about to remove, property from the county where the defendant, being a natural person, last resided, or, being a corporation, last kept its principal office, or from the county in which the action is brought, with intent to defraud his or its creditors, or has assigned, disposed of, or secreted, or is about to assign, dispose of, or secrete, property, with the like intent; or that the defendant, being a natural person of full age, and a resident of the State, has been continuously without the United

States for the space of six months or more, immediately before the application, and either that he has not made a designation of a person, upon whom to serve a summons in his behalf, as prescribed in section four hundred and thirty of the Code of Civil Procedure, or that service upon the person so designated cannot be made, with due diligence, in the county where the person making the designation resides. The affidavit must be filed with the justice, when the warrant is granted.

§ 1318. The warrant must be granted by the justice at the time when the summons is issued, and must be issued by the clerk; and it must be indorsed thereupon, or annexed thereto. It must be subscribed by the justice, and must briefly recite the ground of the attachment. It must require the marshal, to whom the summons is delivered to attach, on or before a day specified therein, which must be at least six days before the return day of the summons, and safely to keep, as much of the defendant's goods and chattels, within his county, as will satisfy the plaintiff's demand, with the costs and expenses, and to make return of his proceedings thereon to the justice, at the time when the summons is returnable. The amount of the plaintiff's demand must be specified in a warrant, as stated in the affidavit.

Co. Civ. Proc.
§2907.
1857, ch. 344,
§20 comp. 1335.
Warrant, form
and contents
thereof.

§ 1319. Before granting the warrant, the justice must require a written undertaking to the defendant, on the part of the plaintiff, with one or more sureties, approved by the justice, to the effect that, if the defendant recovers judgment, or the warrant of attachment is vacated, the plaintiff will pay all costs which may be awarded to the defendant, and all damages which he may sustain by reason of the attachment, not exceeding the sum specified in the undertaking, which must be at least twice the amount of the plaintiff's demand, as stated in the warrant; and that if the plaintiff recovers judgment, he will pay to the defendant all money received by him from property taken by virtue of the warrant of attachment, or upon any bond given therefor, over and above the amount of the judgment and interest thereupon.

Id. 2908.
Undertaking.

§ 1320. The marshal to whom the warrant of attachment is delivered, must execute it at least six days before the return day of the summons, by levying upon and taking into his custody so much of the goods and chattels of the defendant, not exempt from levy and sale by virtue of an execution, including money and bank-notes, which he finds within his county, as will satisfy the plaintiff's demand, with the costs and expenses. He must safely keep the property attached, to be disposed of as prescribed in this title, and must immediately make an inventory thereof, stating therein the estimated value of each item or article.

Co. Civ. Proc.
§3219.

Co. Civ. Proc.
§2909.
Warrant, how
executed.

Id. §2910.
Service of sum-
mons and war-
rant upon
defendant.

§ 1321. The marshal must, immediately after making the inventory, and at least six days before the return day of the summons, serve the summons, together with the warrant of attachment and inventory, upon the defendant, by delivering to him personally a copy of each, if he can, with reasonable diligence, be found within the county ; or, if he cannot be so found, by leaving a copy of each, certified by the constable, at the last place of residence of the defendant in the county, with a person of suitable age and discretion ; or, if such a person cannot be found there, by posting it on the outer door, and also depositing another copy in the nearest post-office, inclosed in a sealed post-paid wrapper, directed to the defendant at his residence ; or, if the defendant has no place of residence in the county, by delivering it to the person in whose possession the property attached is found.

Id. §2911.
Undertaking by
defendant; re-
delivery to him

§ 1322. The defendant, or his attorney or agent in his behalf, may, at any time before judgment is rendered in the action, execute and deliver to the marshal an undertaking, to the plaintiff in a sum specified therein, at least twice the value of the property attached, as stated in the inventory, with one or more sureties, approved by the marshal or by the justice who issued the warrant ; and to the effect, that if judgment is rendered against the defendant and an execution is issued thereupon, within six months after the giving of the undertaking, the property attached shall be produced to satisfy the execution. Thereupon the marshal must deliver the property to the defendant.

Id. §2912.
Claim by third
person; bond
and delivery
thereupon.

§ 1323. If a person, not a party to the action, claims any property attached, which is not reclaimed by the defendant, as prescribed in the last section, he may, at any time after the seizure and before execution is issued upon a judgment rendered in the action, execute and file with the clerk a bond to the plaintiff, with one or more sureties, approved by the marshal or by the justice, in a penalty at least twice the value of the property claimed, and conditioned that, in an action upon the bond to be commenced within three months thereafter, the claimant will establish that he was the general owner of the property claimed at the time of the seizure ; or, if he fails so to do, that he will pay to the plaintiff the value thereof, with interest. The marshal must thereupon deliver the property claimed to the claimant.

Id. §2913.
Action upon
bond.

§ 1324. A judgment for the plaintiff, in an action upon a bond, given as prescribed in the last section, must award to him the value of the property seized and delivered to the claimant, with interest thereupon from the time of the delivery. If the amount so recovered exceeds the amount which the

plaintiff recovers in the action in which the warrant of attachment was issued, he is liable to the defendant in that action for the excess.

§ 1325. If the warrant of attachment is vacated or annulled, the defendant may maintain an action, upon the bond specified in the last two sections, in his own name, in the same manner and with the like effect as the plaintiff might have done if the warrant had remained in full force.

Co. Civ. Proc.
§2014.
When defendant may prosecute bond.

§ 1326. The marshal executing the warrant of attachment must, at the time when and place where it is returnable, make a return thereto, under his hand, stating all his proceedings thereupon. He must deliver to the clerk, with the return, each bond or undertaking delivered to him, pursuant to any of the foregoing provisions of this article, and a certified copy of the inventory of the property attached. The return must state the manner in which the warrant and inventory were served, and, if they were served otherwise than by delivering a copy thereof to the defendant personally, the reason therefor, and the name of the person to whom the copy was delivered, unless his name is unknown to the marshal; in which case the return must describe him so as to identify him, as nearly as may be.

Id. §2915.
Return of warrant.

§ 1327. A defendant, whose property has been attached, may, upon the return of the summons, apply to the justice who granted the warrant of attachment to vacate or modify it, or to increase the plaintiff's security. Such an application may be founded upon the papers upon which the warrant was granted; or upon proof, by affidavit, on the part of the defendant, or upon both. If it is founded upon proof on the part of the defendant, it may be opposed by new proof, by affidavit, upon the part of the plaintiff, tending to sustain any ground for the attachment, recited in the warrant, but no other. The justice may, upon the return of the summons, or at any other time to which the action is adjourned, vacate the warrant of attachment upon his own motion, if he deems the papers upon which it was granted insufficient to authorize it.

Id. §2916.
Motion to vacate or modify warrant, etc.

§ 1328. Vacating the warrant of attachment does not affect the jurisdiction of the justice to hear and determine the action, where the defendant has appeared generally in the action; or where the summons was served personally upon him; or where judgment may be taken against him, as being indebted jointly with another defendant, who has been thus summoned or has thus appeared. In every other case the justice who vacates a warrant of attachment against the property of a defendant must dismiss the action as to him.

Id. §2917.
Effect of vacating warrant.

Id. §2918.
Proceedings
when summons
not personally
served.

§ 1329. Where the defendant has not appeared, and the summons has not been personally served upon him, and property of the defendant has been duly attached by virtue of a warrant, which has not been vacated, the justice must proceed to hear and determine the action; but in an action subsequently brought, the judgment is only presumptive evidence of indebtedness, and the defendant is not barred from any counter-claim against the plaintiff. The execution, issued upon a judgment so rendered, must require the marshal to satisfy it out of the property so attached, without containing a direction to satisfy it out of any other property.

Co. Civ. Proc.
§1740.

§ 1330. In an action to foreclose a lien upon a chattel, if the plaintiff is not in possession of the chattel, a warrant, commanding the proper officer to seize the chattel, and safely keep it to abide the judgment, may be issued, in like manner as a warrant of attachment may be issued in an action founded upon a contract; and the provisions of law applicable to a warrant of attachment issued out of the court, apply to a warrant issued as prescribed in this section, and to the proceedings to procure it, and after it has been issued; except as otherwise specified in the judgment. A judgment in favor of the plaintiff, in such an action, must correspond to a judgment rendered as prescribed in section seventeen hundred and thirty-nine of the code of civil procedure, except that it must direct the sale of the chattel by an officer to whom an execution, issued out of the court, may be directed; and the payment of the surplus, if its safe keeping is necessary, to the county treasurer, for the benefit of the owner.

Co. Civ. Proc.
§2919.
When action
for a chattel
may be
brought.

§ 1331. An action to recover a chattel, with or without damages for the wrongful taking, withholding, or detention thereof, can be brought before a district court, in a case and subject to the qualifications specified in sections sixteen hundred and eighty-nine, sixteen hundred and ninety, sixteen hundred and ninety-one, and sixteen hundred and ninety-two, and subdivision seventh of section twenty-eight hundred and sixty-two of the code of civil procedure.

Id. §2920.
Plaintiff may
procure replev-
in; affidavit and
undertaking.

§ 1332. The plaintiff may, at the time when the summons is issued, but not afterwards, require the chattel to be replevied as prescribed in sections thirteen hundred and thirty-three to thirteen hundred and forty-five, inclusive. For that purpose, he must deliver to the justice an affidavit and an undertaking, similar in all respects to the affidavit and undertaking required to be delivered to a sheriff, as prescribed in sections sixteen hundred and ninety-five, sixteen hundred and ninety-seven, sixteen hundred and ninety-nine, and seventeen hundred and twelve of

the code of civil procedure; except that the sureties in the undertaking must be approved by the justice.

§ 1333. Upon receiving the affidavit and undertaking, the justice must indorse upon or attach to the affidavit a written requisition, subscribed by him, requiring the marshal to whom the summons is delivered, to replevy the property described in the affidavit, on or before a day specified in the requisition, which must, except in the case of a non-resident defendant, be at least six days before the return day of the summons. The affidavit and requisition must be delivered to the marshal with the summons.

Id. §221.
Requisition.

§ 1334. The marshal must execute the requisition, as a sheriff is required to execute a requisition, in an action brought to recover a chattel, as prescribed in sections seventeen hundred, seventeen hundred and one, and seventeen hundred and two of the code of civil procedure; except that he must, save in the case of a non-resident defendant, serve the summons, affidavit, and requisition within the time and in the manner prescribed by section thirteen hundred and twenty-one of this act for the service of a summons, warrant of attachment, and inventory.

Id. §222.

Id.; how executed.
Service of summons, etc.

§ 1335. The marshal must, on or before the return day of the summons, make a return to the requisition, under his hand, stating all his proceedings thereupon; and file it, with the affidavit and requisition, with the clerk. The return must state the manner in which the summons, affidavit, and requisition were served; and, if they were served otherwise than by delivering the requisite copies to the defendant personally, the reason therefor, and the name of the person to whom the copies were delivered, unless his name is unknown to the marshal; in which case, the return must describe him so as to identify him, as nearly as may be.

Id. §223.
Return of marshal.

§ 1336. At any time after the chattel has been replevied, except in the case of a non-resident defendant, and at least two days before the return day of the summons, the defendant, unless he requires a return of the chattel, may serve upon the plaintiff, or upon the marshal, a written notice that he excepts to the plaintiff's sureties; otherwise he is deemed to have waived all objections to them. If such a notice is served, the sureties must justify upon the return of the summons; or the plaintiff must then give new undertaking to the same effect as the original undertaking, with other sureties, who must then appear and justify before the justice.

Co. Civ. Proc.
§224.
Defendant may except the sureties; proceedings thereon.

§ 1337. At any time before the return day of the summons, the defendant may, if he does not except to the plaintiff's sureties, serve upon the clerk a notice that he requires the return of the chattel replevied. With the notice he must deliver

Id. §225.
Defendant may reclaim chattel; proceedings thereon.

to the clerk an affidavit and an undertaking, similar, in all respects, to those required to be given by a defendant upon requiring a return of a chattel, as prescribed in sections seventeen hundred and four and seventeen hundred and twelve of the code of civil procedure, omitting the provision in the undertaking, "or if the action abates in consequence of the defendant's death." The sureties in the undertaking must justify before the justice upon the return of the summons. If the plaintiff has stated separately in his affidavit the value of one or more chattels or classes of chattels, as prescribed in section sixteen hundred and ninety-seven of the code of civil procedure, the defendant may require a delivery of part of the property replevied, as prescribed in that section.

Id. §2926.
Justification of
sureties.
§816.

§ 1338. Except as otherwise expressly prescribed in this title, the examination and qualifications of the sureties, and the allowance of the undertaking, upon a justification pursuant to either of the last two sections, must be the same as upon a justification of bail, as prescribed in sections five hundred and seventy-nine, five hundred and eighty, and five hundred and eighty-one of the code of civil procedure, substituting the justice for the judge; but after such allowance, the undertaking must be filed with the clerk. The marshal is thereupon exonerated from liability.

Id. §2927.
When and to
whom marshal
must deliver
chattel.

§ 1339. If the defendant neither excepts to the plaintiff's sureties nor requires the return of the chattel, within the time prescribed for that purpose; or if he fails to procure the allowance of his undertaking; or if the plaintiff, after the defendant has excepted to his sureties, duly procures the allowance of his undertaking, the marshal must, except in the case specified in the next section but one, immediately deliver the chattel to the plaintiff. If the plaintiff, after the defendant has excepted to his sureties, fails to procure the allowance of his undertaking; or if the defendant, after he has required the return of the chattel, procures the allowance of his undertaking, the constable must immediately deliver the chattel to the defendant.

Id. §2928.
Penalty for
wrong delivery
by marshal.

§ 1340. The marshal who delivers to either party, without the consent of the other, a chattel replevied by him, except as prescribed in the last section, or by virtue of an execution issued upon a judgment in the action, forfeits to the party aggrieved the sum of one hundred dollars, and is also liable to him for all damages which he sustains thereby.

Co. Civ. Proc.
Id. §2929.
Claim of title by
third person.

§ 1341. The provisions regulating the proceedings, where a person, not a party, claims property which has been replevied, and the rights of such a person; and of the sheriff, as prescribed in sections seventeen hundred and nine, seventeen hundred and ten, seventeen hundred and eleven, and seventeen hundred and

twelve of the Code of Civil Procedure, apply to a like case in an action, brought as prescribed in this title, substituting the marshal for the sheriff; except that service of a notice and a copy of the claimant's affidavit, upon the plaintiff's attorney, as prescribed in section seventeen hundred and nine of said act, must be made either upon the plaintiff personally, or upon the attorney who appears for him before the justice; and that the sum specified in the undertaking, given by the plaintiff to the marshal, need not exceed, in any case, three hundred dollars.

§ 1342. Where a chattel has been replevied, and the defendant has not required the return thereof, pending the action, as prescribed in the foregoing sections, he may, in his answer, demand judgment for the return thereof, either with or without damages for the taking, withholding, or detention.

Id. §2930.
Defendant may demand judgment for return.

§ 1343. Section thirteen hundred and seventy-three, section seventeen hundred and thirty-one, excluding subdivision first thereof, and sections seventeen hundred and twenty-two, seventeen hundred and twenty-six, seventeen hundred and thirty, seventeen hundred and thirty-two, seventeen hundred and thirty-three, seventeen hundred and thirty-four, and seventeen hundred and thirty-five of the Code of Civil Procedure, substituting the marshal for the sheriff, apply to the proceedings in an action in a district court to recover a chattel, and to an action against the sureties in an undertaking given therein, except as otherwise specially prescribed in this title.

Id. §2931.
Proceedings in the action; action on undertaking.

§ 1344. Where the defendant does not appear, and the summons has not been personally served upon him, and a chattel, or part of a chattel, to recover which the action is brought, has been replevied, and the proceedings thereupon have been duly taken, as prescribed in this title, the justice must proceed to hear and determine the action, with respect to that chattel, or part of a chattel; or, if the action is brought to recover two or more chattels, with respect to those which have been replevied, in like manner and with like effect, as if the summons had been personally served.

Id. §2932.
Proceedings when summons not personally served.

§ 1345. Where the summons has been personally served upon the defendant, or where he appears, the justice must proceed to hear and determine the action, although the plaintiff has not required the chattel to be replevied, or the marshal has not been able to replevy it.

Id. §2933.
When action not affected by failure to replevy.

§ 1346. The pleading must take place at the time the summons is returned served, or at such other time as the justice may direct. In an action brought to recover upon or for the breach of a contract, express or implied, the plaintiff may serve upon the defendant, with the summons, and in like manner, a

Co. Civ. Proc. §3126.
When plaintiff may serve complaint with summons; proceedings thereupon.

copy of a written complaint, verified in like manner as a verified pleading in the supreme court.

1857, ch. 344, §48,
Comp. 1340.
1890, ch. 245, §3,
subd. 13.

§ 1347. Sections twenty-eight hundred and ninety-one, twenty-eight hundred and ninety-two, twenty-nine hundred and thirty-five, twenty-nine hundred and thirty-six, twenty-nine and thirty-eight, twenty-nine hundred and thirty-nine, twenty-nine hundred and forty, twenty-nine hundred and forty-one, twenty-nine hundred and forty-two, twenty-nine hundred and forty-three, and twenty-nine hundred and forty-four of the code of civil procedure apply to these courts, except as in this title otherwise expressly provided.

1862, ch. 380, §1.
Comp. 1351.
Additional
jurisdiction
conferred.

§ 1348. The pleadings and proceedings in actions in which the people of this State are a party, where such actions are brought by the overseers of the poor or the commissioners of public charities and correction upon bastardy or abandonment bonds, shall be the same as in actions brought on bonds with conditions other than for the payment of money, and for any breaches of the condition of such bond given in cases of bastardy which shall happen after the recovery of any damages or the commencement of any suit, the district court in which the suit was originally brought shall have power to issue a new summons, and upon the return thereof, to ascertain the amount of damages arising from said breach, and to give judgment accordingly; and in suits upon bonds given in abandonment cases, the justice holding such court shall have the same power as to requiring further security or committing defendant in default thereof, as are conferred by law upon the judges of courts of record in similar cases.

Co. Civ. Proc.
§2951
Answer of title.

§ 1349. The defendant may, either with or without other matter of defense, set forth in his answer facts showing that the title to real property will come in question. Such an answer must be in writing; and it must be signed by the defendant, or his attorney or agent, and delivered to the justice. The justice must, thereupon, countersign the answer, and deliver it to the plaintiff.

Id. §2982.
Undertaking
thereupon.

§ 1350. In the case specified in the last section, the defendant must also deliver to the justice, with the answer, a written undertaking, executed by one or more sureties, approved by the justice, to the effect that, if the plaintiff, within twenty days thereafter, deposits with the justice a summons and complaint in a new action, for the same cause, to be brought in the proper court, as prescribed in the next section, the defendant will, within twenty days after the deposit, give a written admission of the service thereof. Where the defendant was arrested in the action before the justice, the undertaking must further provide that he will, at all times, render himself amenable to any mandate which may be issued to enforce a final judgment in the action so to be

brought. If the defendant fails to comply with the undertaking, the sureties are liable thereupon to any amount for which judgment might have been rendered by the district court, if the answer and undertaking had not been delivered.

Co. Civ. Proc.
§3212.

§ 1351. The court in which a new action is to be brought, as prescribed in the last section, is the supreme court.

Id. §2953.
In what court
new action to
be brought.

§ 1352. Upon the delivery of the undertaking to the justice, the action before him is discontinued, and each party must pay his own costs. The costs so paid by either party must be allowed to him, if he recovers costs in the new action, to be brought as prescribed in the two last sections. If the plaintiff fails to deposit with the justice a summons and complaint in the new action, before the expiration of twenty days after the delivery of the undertaking, the defendant may maintain an action against the plaintiff to recover his costs before the justice.

§ 1353. If the undertaking is not delivered to the justice, he has jurisdiction of the action, and must proceed therein; and the defendant is precluded, in his defense, from drawing the title in question.

Co. Civ. Proc.
§2955.
When action
before justice
to be discontinued.

§ 1354. If, however, it appears upon the trial, from the plaintiff's own showing, that the title to real property is in question, and the title is disputed by the defendant, the justice must dismiss the complaint, with costs, and render judgment against the plaintiff accordingly.

Id. §2956.
Effect of failure
to give undertaking.

§ 1355. In the new action, to be brought after an action before a justice is discontinued, by the delivery of an answer and an undertaking, as prescribed in the last six sections, the plaintiff must complain for the same cause of action only upon which he relied before the justice, and the defendant's answer must set up the same defense only which he made before the justice. If the action is to recover a chattel which was replevined in the justice's court, each undertaking, given in the justice's court, continues to be valid in, and is applicable to, the new action.

Id. §2957.
When title
comes in
question on
plaintiff's own
showing.

Id. §2957.
Pleadings in
new action.
Undertaking
before justice,
when applicable.

§ 1356. Where in an action before a justice, the plaintiff has two or more causes of action, and the defense, that the title to real property will come in question is interposed, as to one or more, but not as to all of them, the defendant may deliver an answer and undertaking as prescribed in sections thirteen hundred and forty-nine and thirteen hundred and fifty of this act, with respect to the cause or causes of action only, in which title will so come in question. Whereupon the justice must discontinue the action as to those causes of action only; the plaintiff may commence a new action therefor in the proper court; and the original action must proceed as to the other causes.

Id. §2958.
Answer of title
as to one of
several causes
of action.

§ 1357. Application for the removal of a person from real property as prescribed in title two of chapter seventeen of the

Id. §2234.

1862, ch. 484, §14,
as amended
1879, ch. 102,
Comp. 1332.
See 1880, ch. 345,
§3, subd. 9.
Process, in
summary pro-
ceedings, by
whom to be
served.

Co. Civ. Proc.
§2239.
Dispossess pro-
ceedings; pre-
cept where re-
turnable, etc.

code of civil procedure, may be made to the district court of the district within which the property, or a portion thereof, is situated. Every precept in summary proceedings to dispossess tenants shall be served and executed by a marshal of said city, except as provided in section thirteen hundred and one of this act.

§ 1358. The petition must be filed with, and the precept must be issued by the clerk of the court; and the precept must be made returnable before the court, at the place designated, pursuant to law, for the holding court; and all subsequent proceedings in the cause must be had at that place, except as otherwise prescribed in the next section but one. If, upon the return of the precept or upon an adjourned day, the justice is unable, by reason of absence from the court room or sickness, to hear the cause, and it is not adjourned by the clerk in accordance with section twelve hundred and ninety-two of this act, or it is shown by affidavit that he is for any reason disqualified to sit in the cause, or is a necessary and material witness for either party, a justice of any other district court of the city may act in his place at the same court room.

Id. §2244.
Answer.

§ 1359. At the time when the precept is returnable, without waiting as prescribed in an action in the district court, the person to whom it is directed, or his landlord, or any person in possession or claiming possession of the premises, or a part thereof, may file, with the judge or justice who issued the precept, a written answer, verified in like manner as a verified answer in an action in the supreme court, denying generally the allegations, or specifically any, material allegation of the petition.

Co. Civ. Proc.
§2246.
Cause may be
transferred to
another district
court for trial.

§ 1360. At the time of joining issue, the justice sitting in the cause may, in his discretion, upon motion of either party, or, if no justice is present, the clerk may, by consent of both parties, make an order transferring the cause for trial, to a district court of an adjoining district, which thereupon has the same jurisdiction and power, at its own court-house, as if the property was situated within its district.

1857, ch. 344, §24,
Comp. 1336.

§ 1361. The court may at the time of pleading, or at any other time before the trial, require the plaintiff or defendant to exhibit to the inspection of the adverse party, with liberty to copy the same, any writing or account declared on or set up in the way of offset or counter-claim, or if not so exhibited, may prohibit its afterwards being given in evidence.

Id. §33.
Trials.
4 E. D. S. 18;
3 Id. 59.

§ 1362. The trial of the action may be adjourned by the court, or on the application of either party, for a period not exceeding eight days at any one adjournment, unless the defendant is under arrest, in which case it shall not be adjourned to exceed

forty-eight hours, except by consent of the defendant; and adjournment for more than forty-eight hours in such cases, except on application of the defendant, or by his consent, discharges the defendant from custody, but the action may proceed, notwithstanding such discharge, and the defendant shall be subject to arrest on the execution, in the same manner as if he had not been so discharged. The trial may be adjourned for a longer period by consent, or where neither party objects to the same.

§ 1363. If the application for the adjournment of the trial be on the part of the defendant under actual arrest, before it can be granted he must execute an undertaking, with one or more sufficient sureties, to be approved by the justice, which approval must be indorsed on the undertaking, to the effect that he will appear on the adjourned day, and not depart until duly discharged according to law, or until after the trial and judgment, and that he will surrender himself into custody if any execution be issued upon the judgment when obtained against him in the action.

Id. §26.
Application for
adjournment.

§ 1364. An adjournment may be had either at the joining of issue, or at any subsequent time to which the cause may stand adjourned on application of either party, for a period longer than eight days, but not to exceed ninety days from the return of the summons, upon executing an undertaking in writing, with one or more sufficient sureties, to the effect that he will pay to the plaintiff or defendant the damages, costs, and extra costs, in case judgment shall be rendered against him in the action, upon proof by the oath of the party or otherwise, to the satisfaction of the justice, that such party cannot be ready for trial before the time to which he desires an adjournment, for the want of material evidence, describing it; that the delay has not been made necessary by any act or neglect on his part since the action was commenced, and that he expects to procure the evidence at the time stated by him. All bonds taken upon the adjournment of any cause shall be good and valid against the obligor or obligors, although subsequent adjournments are had after the execution of such bond or obligation.

Id. §27.
Adjournments.
4 E. D. S., 68.

§ 1365. The justice may impose upon the party applying for an adjournment such conditions as to him may seem reasonable.

1857, ch. 344, §28.
Comp. 1337.

§ 1366. If the plaintiff fail to appear at the return of the summons and make his complaint, the action must be dismissed.

Id. §29.
Failure to appear by plaintiff.

§ 1367. Any justice may, upon motion made before him, open and set aside any default made in any action tried before or by him, and may award such costs, not exceeding ten dollars, as a condition for opening such default against the party in default,

1862, ch. 484, §16.
Comp. 1352.
When default may be opened.
See 18 Abb. 1.

as in his discretion shall be just and proper. He may, likewise, as a condition of opening such default, order such party in default to give an undertaking, with sufficient sureties, to the effect that such defendant will not sell, assign, or transfer any of his property with intent to hinder, delay, or defraud the plaintiff in the collection of his claim or demand, if he shall prevail on the trial of such action, and that he or his sureties will pay the amount of any judgment recovered against such defendant in such action.

1857, ch. 344, §90.
Comp. 1337.
1890, ch. 245, §3,
subd. 13.

§ 1368. Sections twenty-nine hundred and eighty to twenty-nine hundred and eighty-seven, inclusive, of the code of civil procedure apply to these courts, but the power and authority therein given is extended so as to authorize the issuing of commissions to take the testimony of witnesses residing out of this State, except as in this title otherwise expressly provided.

1857, ch. 344, §31.
Conditional
testimony.

§ 1369. Whenever any action pending in either of said courts shall be commenced by the actual service of process, or when the defendant shall have appeared in the action, either party may have the testimony of any witness who is about to leave the city and county of New York, and will probably continue absent, when the testimony is required, taken conditionally, to be used on the trial of such action, in the same manner and with like effect as provided by sections eight hundred and seventy-one to eight hundred and eighty-three, inclusive, of the code of civil procedure, which apply to those courts, except as in this title otherwise expressly provided.

1890, ch. 245, §3,
subd. 13.

1857, ch. 344, §32.
Comp. 1338.
Subpoenas.

§ 1370. Subpoenas requiring witnesses to appear and testify on the trial of an action, on the demand of either party, shall be issued out of these courts by the clerks thereof, in the same form and served in the same manner as subpoenas issued out of a court of record, but shall not be served out of the city and county of New York, or an adjoining county thereto, and for neglect or refusal to attend and testify as required by such subpoenas, such witnesses may be attached and punished in the manner provided by law for punishing similar neglect or refusal in courts of record; witnesses are entitled to twenty-five cents for each day's attendance on the trial of an action.

Co. Civ. Proc.
§1111.
Comp. 1854.
List of trial
jurors to be
selected.
1857, ch. 344, §33,
Comp. 1338.
List of jurors.

§ 1371. A list of trial jurors for each of the district courts must be selected by the commissioner of jurors, and must consist of not less than fifty, nor more than one hundred jurors. A person shall not be placed upon such a list who does not reside in the district in which the court is held. The commissioner of jurors shall, on or before the first Monday of September in each and every year, furnish the clerk of each of these courts with a list of the names, residence, and occupation of the persons liable to do jury duty, and who are borne upon said list. The clerk of

the court who shall receive such jury list, must write on a slip of paper the name of each of the persons so furnished, and place the same in a box, to be called the undrawn jury box. The judge of each district court must impose a fine of twenty-five dollars upon each person duly drawn and notified to attend the court as a trial juror, who fails to attend as required by the notice. The clerk of the court must, within ten days thereafter, transmit to the commissioner of jurors a certificate showing that the fine has been so imposed, and stating how the notice to attend was served upon the delinquent; in order that the same proceedings may be had as in the case of a delinquent juror in a court of record. A judge or a clerk who violates this section forfeits one hundred and fifty dollars for each offense.

Co. Civ. Proc.
§1111.
Comp. 1854.

§ 1372. A trial by jury must be demanded at the time of joining an issue of fact, and is waived if neither party then demand it; when demanded, the trial of the case may be adjourned until a time fixed for the return of the jury. The clerk must publicly draw twelve persons from the undrawn jury box, and deliver the list thereof to a marshal, or to a person deputed by the justice for that purpose, with a written or printed notice, directed to each person named in the list, requiring him to attend as directed as a juror, at a time specified therein, out of which number six of the persons attending shall be drawn to try the cause, provided that number appear.

1857, ch. 344, §34,
Comp. 1858.
Trial by jury.
Drawing of
jury.

§ 1373. But in all cases where both parties to any action shall assent thereto, or where any party shall have claimed and the other shall assent thereto, the justice of said court shall order a jury of twelve men to be summoned to try the issues. In such case the clerk shall draw twenty-four names, and the same shall be summoned in the same manner as in other cases required by law, and twelve of such number shall be drawn to try the cause. The jury fee to be deposited in such cases shall be six dollars, besides the officer's fees for summoning the jury.

1869, ch. 410, §1,
Comp. 1854.
When jury of
twelve to be
drawn.

§ 1374. The officer or the person deputed, as in the last section but one provided, must thereupon immediately summon each person named in the list, by giving him the notice mentioned in the last section but one personally, or by leaving it at his place of residence, with some person of suitable age and discretion, and must return the list to the court at its opening, on the day for which the jury was drawn, specifying the persons summoned, and the manner in which each was notified.

1857, ch. 344, §35,
Comp. 1858.

§ 1375. If a sufficient number of competent and indifferent jurors do not attend, the justice must direct to be summoned from the vicinity sufficient to complete the jury by a marshal or a person deputed for that purpose.

Id. §37,
Comp. 1859.
Non-attendance of jurors.

Id. §38.
Unchanged.
Ballots.

§ 1376. The ballots containing the names of the jurors summoned and not drawn, must be returned by the clerk to the undrawn jury box, to be drawn as in the first instance. The ballots containing the names of the jurors who served, must be placed in a box to be called the drawn jury box, until all the other names have been drawn therefrom, and, as often as that happens, the whole number must be returned to the undrawn jury box, as in the first instance.

Id. §39.
Fees on jury
trial.

§ 1377. Before a party can be entitled to a jury, he must deposit with the clerk at the time he demands a trial by jury, the sum of three dollars and the officer's fees for summoning the jury, from which the clerk must refund to the party the fees of all jurors who do not attend, which jurors' fees not refunded and the officer's fees must be included in the judgment, as part of the costs, in case the party calling the jury recover judgment.

1857, ch. 344,
§40, Com. 1338.
Adjournment
after return of
jury.

§ 1378. No adjournment can be granted after the return of the jury unless the party requiring the same, in addition to the other conditions imposed upon him, deposit with the clerk to be immediately paid to the jurors attending, the sum of twenty-five cents each, which amount in no case is to be included as part of the costs in the judgment.

Id. §41.
Competency of
jurors.

§ 1379. If either party object to the competency of a juror, the question thereon must be tried in a summary manner by the justice who may examine the jurors or other witnesses on oath.

Id. §42.
Verdicts.

§ 1380. The verdict of the jury must be general for the plaintiff for a specific sum, or for the defendant, or where there is a counterclaim or set-off proved for the defendant in a specified sum, but when there are several plaintiffs or defendants, the verdict may be for or against one or more of them, and the judgment must be entered therein immediately after the rendering of the verdict.

Id. §44.
Swearing jury,
etc.

§ 1381. The swearing of the jury, and the mode of conducting the trial, are the same in these courts as they are in courts of record.

Id. §45.
When action
may be dis-
missed.

§ 1382. Judgment that the action be dismissed, with costs, without prejudice to a new action, shall be rendered in the following cases :

1. Where the plaintiff voluntarily discontinues the action before it is finally submitted.
2. When he fails to appear at the time specified in the summons or upon adjournment.
3. When it is objected at the trial, and appears by the evidence that the action is brought in the wrong district, or by a plaintiff not a resident in the county, without giving the secur-

ity required by this title, or that the court has not jurisdiction ; but if the objection be taken and overruled, it is cause only of reversal on appeal, and does not otherwise invalidate the judgment, if not taken at the trial it is waived, and the court will be deemed to have jurisdiction.

4. Where the plaintiff does not prove his cause of action.

§ 1383. When the defendant fails to appear and answer, judgment must be given for the plaintiff, as follows :

Id. §46.
Failure to appear and answer.
Co. Civ. Proc. §3182.

1. In a case where a written complaint has been served with the summons in accordance with the foregoing provisions of this title, unless the defendant, upon the return of the summons; or, if the cause has been adjourned by the clerk in accordance with law at the time to which it was adjourned, files a written answer, verified in like manner, denying one or more material allegations, or, generally, each allegation of the complaint, or setting forth new matter, constituting one or more defences or counterclaims, the justice must render judgment in favor of the plaintiff, for the sum claimed in the complaint, with costs, without putting the plaintiff to any proof. The provisions of this section apply, where the action is against two or more defendants jointly indebted, and the summons and a copy of the complaint are served upon or one more, but not upon all of them; in which case, judgment may be taken, as prescribed in this section, against all the defendants, in like manner and with like effect as a judgment taken as prescribed in section three thousand and twenty of the code of civil procedure.

2. In other cases the justice must hear the evidence of the plaintiff, and render judgment for such sum only as shall appear by the evidence to be just, but in no case to exceed the sum specified in the summons.

§ 1384. Upon the issue of fact joined, if a jury trial be not demanded, as required by this title, the justice must hear the evidence, and decide all questions of fact and law, and render judgment accordingly within eight days from the time the same is submitted to him for that purpose, except when the defendant is under arrest, and has not given security for his appearance; in such case the justice shall render his judgment immediately after the close of the trial. All issues of law shall be heard and decided by the judge, without a jury.

1857, ch. 344, §47
Comp. 1340.
Issues of fact.
4 E. D. R. 270.

§ 1385. Where the amount found due to either party exceeds the sum for which the justice is authorized to enter judgment, such party may remit the excess, and judgment may be entered for the residue.

Id. §49.

§ 1386. When a judgment is rendered in a case where the defendant is subject to arrest and imprisonment thereon, it must be so stated in the judgment and entered in the docket.

Id. §50.
Judgments in cases of arrest and imprisonment.

81 N. Y. 90;
28 How. 225.
Id. §78.
Comp. 1846.
Special
proceedings.

§ 1387. The trial of an action or special proceeding may be continued from day to day or from one day to any other day or days until the same is finished. A special proceeding commenced before one justice may be continued before any other justice having jurisdiction of the subject matter, the same as though it had been originally commenced before him. A transcript of any proceedings had before either of said justices, or of any paper filed with the clerk, or of the minutes of any testimony taken by or before said justice, certified by the clerk to be correct, shall be presumptive evidence of the facts therein contained.

Id. §79.
Powers and
authority of
justices when
engaged in
trials.

§ 1388. The justice, when actually engaged in the hearing or trial of any special proceeding, shall have all the power and authority that are conferred on these courts by section fourteen hundred and fifteen, and he may compel the attendance of witnesses on the trial of such special proceeding the same as if it was the trial of an action pending in a court of record, except that when the proceedings are before him as such, and not before the court, subpoenas shall be signed by the justice, and he is authorized to punish witnesses for neglect to attend the same, as courts of record are authorized to do.

1873, ch. 538, §1,
Comp. 1397.

§ 1389. No justice of a district court shall exercise any power or authority appertaining to any police justice except as otherwise specially provided in this title.

1887, ch. 481, §6,
Comp. 1356.
Saving clause.

§ 1390. No process, suit, judgment, execution, or proceeding had before either of the courts held by either of the said justices shall abate or be discontinued by reason of the death, removal from office, or vacancy in office of any justice, but the respective successors in office of the said justices shall proceed to hear, try, determine, and give judgment in and upon the same, and upon all matters and things pending before and undecided by their predecessor in office, with the same powers, jurisdiction, and authority as their predecessors had.

1857, ch. 344, §77,
Comp. 1345.
Justices to take
depositions.
1880, ch. 245, §3,
subd. 13.

§ 1391. The justices of each of the courts may, in the city of New York, by virtue of his office, administer oaths, take depositions and acknowledgements, and certify the same in like manner and with like effect as if he were a justice of a court of record. Sections nine hundred and fourteen to nine hundred and seventeen, inclusive, and section thirty-three hundred and nineteen of the code of civil procedure apply to the justices of these courts.

Co. Civ. Proc.
§3017.
Transcript of
judgment;
docketing the
same.
See Co. Civ.
Proc. §3220.

§ 1392. The clerk of the court in which a judgment is rendered, except in an action to recover a chattel, must, upon the application of the party in whose favor the judgment was rendered, and payment of the fee therefor, deliver to him a transcript of the judgment. The county clerk of the county in

which the judgment was rendered, must, upon the presentation of the transcript, and payment of the fees therefor, indorse thereupon the date of its receipt, file it in his office, and docket the judgment, as of the time of the receipt of the transcript, in a book kept by him for that purpose, as prescribed in article third of title first of chapter eleventh of the code of civil procedure. Thenceforth the judgment is deemed a judgment of the court of common pleas, and must be enforced accordingly; except that an execution can be issued thereupon, at the option of the judgment creditor, either by the county clerk, as prescribed by section thirty hundred and forty-three of the code of civil procedure, directed to the sheriff, or by the clerk of the district court, directed to a marshal. In case the execution is issued to a marshal, it must be in the same form and executed in the same manner as if the judgment had not been so docketed. The judgment is not a lien upon, and cannot be enforced against real property, unless it is for twenty-five dollars or more, exclusive of costs.

§ 1394. If the action, in which the judgment is rendered, is one of the actions specified in subdivision first or second, of section twenty-eight hundred and ninety-five of the code of civil procedure, or if an order of arrest was granted, and was executed, in a case specified in subdivision third of that section, and, in either case, if the defendant is a male person, there must be inserted in each transcript given, as prescribed in the last section, the words, "defendant liable to execution against his person;" and a like note must also be made in the docket of the judgment made by the county clerk.

Id. §2018; when execution may issue against person.

§ 1394. The clerk of the court in which a judgment is rendered for a chattel, which has been delivered to the unsuccessful party, or for the value thereof, in case a return thereof cannot be had, must, where the value exceeds twenty-five dollars, upon the application of the party in whose favor the judgment was rendered, and payment of the fee therefor, deliver to him a transcript of the judgment, stating the particulars thereof. The county clerk of the county in which the judgment was rendered must, upon the presentation of the transcript, and payment of the fees therefor, indorse thereupon the date of its receipt, file it in his office, and docket the judgment, as of the time of the receipt of the transcript, in a book kept by him for that purpose, as prescribed in article third of title first of chapter eleventh of the code of civil procedure, and must also enter in the docket the particulars of the judgment, as stated in the transcript. Thenceforth the judgment is deemed a judgment of the court of common pleas, and must be enforced accordingly; except that an execution can be issued thereupon only by the

Id. §2019; in action for a chattel.

county clerk, as prescribed in section thirty hundred and forty-three of said code.

Co. Civ. Proc.
§3020.
Judgment
against joint
debtors.

§ 1395. Where an action is brought against two or more persons, jointly indebted upon contract, and the summons is served upon one or more, but not upon all of them, if the plaintiff recovers judgment, it must be entered against all, in the mode prescribed in section nineteen hundred and thirty-two of the code of civil procedure. Sections nineteen hundred and thirty-three, nineteen hundred and thirty-four, and nineteen hundred and thirty-five thereof, apply to such a judgment, and to each execution issued thereupon; except that, where the clerk of the court or the county clerk issues the execution, he must make the indorsement prescribed in section nineteen hundred and thirty-four thereof.

Id. §3021.
Docketing the
same; action
hereupon.

§ 1396. The clerk who gives a transcript of a judgment, taken as prescribed in the last section, must distinctly designate, in the transcript, each defendant who was not summoned. Thereupon the clerk who docket the judgment must make in the docket, under or opposite the name of each defendant not summoned, an entry, as prescribed in section nineteen hundred and thirty-six of the code of civil procedure; and the provisions of that section apply to the judgment so docketed. An action upon a judgment so docketed, can be maintained in a district court against the defendants summoned, only in a like case, and with like effect, as if they were the only defendants in the original action. An action may be maintained against the defendants not summoned, as prescribed in section nineteen hundred and thirty-seven thereof, in any court having jurisdiction thereof; and the plaintiff is entitled to costs, upon recovering final judgment therein, where the sum remaining unpaid is twenty-five dollars or more.

Id. §3022.
Docketing
judgment in
another
county.

§ 1397. The county clerk with whom a transcript is filed, as prescribed in either of the foregoing sections of this title, must furnish to any person applying therefor, and paying the fees allowed by law, one or more transcripts of the docket of the judgment, attested by his signature. A county clerk, to whom such a transcript is presented, must, upon payment of the fees therefor, immediately file it, and docket the judgment in the appropriate docket-book kept in his office, in like manner as the judgment was docketed by the first county clerk. The judgment, when docketed as prescribed in this section, has the like effect, with respect to the enforcement thereof, or any proceedings thereunder, or by virtue thereof, in the county where it was so docketed, as if it was rendered by a justice of the peace of that county, and docketed upon filing his transcript; except that where an application for leave to issue an execution is neces-

sary, it must be made to the county court of the county where the judgment was rendered.

§ 1398. Whenever any judgment shall be rendered against any marshal or his sureties in any of the district courts, a transcript thereof shall be filed in the office of the clerk of the court of common pleas, and from the filing of such transcript such judgment shall be deemed to be a judgment of such court, and shall be enforced in the same manner as other judgments of said court. And no execution on such judgment shall issue to any other officer than the sheriff of the city and county of New York, and all such executions must be made returnable to the clerk of said court.

1862, ch. 484, § 8.
Comp. 1476.
Transcript of
judgment
against
marshal.

§ 1399. The execution, when issued out of the district court, must be directed to a marshal, subscribed by the clerk of the court in which the judgment was rendered, or by his successor in office, and must bear date of the day of its delivery to the officer to be executed. It must intelligibly refer to the judgment by stating the names of the justices before whom, and the district where, and the time when rendered, and the amount of the judgment, and if less than the whole is due, the true amount due thereon. It must require of the marshal substantially as follows:

1857, ch. 344, § 53.
Comp. 1341.
To whom exe-
cution to issue.
To whom
directed, etc.

1. If it be a case where the defendant cannot be arrested, it must direct the officer to collect the amount of the judgment, or the amount due thereon, out of the personal property of the debtor, and to pay the same to the party entitled thereto.

Requirements
of execution.

2. If it be a case where the defendant may be arrested, in addition to the foregoing, it may direct the officer, if sufficient property of the defendant liable to execution cannot be found to satisfy the judgment, that he arrest the defendant and commit him to the jail of the county until he pay the judgment, or be discharged according to law.

3. It must further, in all cases, direct the officer to make return of the execution and a certificate thereon showing the manner in which he has executed the same, in twenty days from the time of his receipt thereof, to the court from which the execution issued.

§ 1400. Upon an execution on a judgment against joint debtors, upon one or more of whom the summons was not served, the execution must contain a direction to collect the amount out of the joint property of all the defendants, and the separate property of the defendants upon whom such summons was served, to be specified by name. If such judgment be also such that the defendants are subject to arrest thereon, the execution must further specify the names of the defendants served with the summons, who may be arrested for want of property.

1857, ch. 344, § 58.
Comp. 1341.
Executions
against joint
debtors.

Id. §54.

§ 1401. When the execution directs the arrest of the defendant for want of sufficient personal chattels, if there be not sufficient subject to levy known to the officer, or if, upon demand by the officer of the defendant, he fail to produce sufficient property, the officer may, without further delay, arrest the defendant; when arrested, the defendant must be conveyed to the common jail of the county, and there kept in custody until the execution, with costs, be paid, or he discharged by due course of law.

Id. §55.
Renewal of
executions.

§ 1402. An execution may, at the request of the plaintiff, be renewed before the expiration of the twenty days by the word "renewal" being written thereon, with the date thereof, subscribed by the clerk of the court or his assistant; such renewal has the effect of an original issue, and may be repeated as often as may be necessary. If an execution be returned unsatisfied, others may be issued on the like request from time to time until the judgment be satisfied.

Co. Proc.
§64.
1857, ch. 344, §48,
Comp. 1340.
1880, ch. 245, §3
subd. 13.

§ 1403. Sections thirty hundred and twenty-four, thirty hundred and twenty-seven, and thirty hundred and forty-three of the code of civil procedure apply to these courts except as herein otherwise expressly provided.

1879, ch. 534, §33.
Imprisonment
on body execution.

§ 1404. Any judgment recovered in an action brought in pursuance of the provisions of subdivision eleven of section twelve hundred and eighty-five of this act may be collected and the payment thereof enforced by execution against the person, and any person imprisoned by such execution shall be so imprisoned for a period of not less than five days and at the rate of one day for every dollar or fractional part thereof of such judgment and interest when the same exceeds five dollars, and such imprisonment shall not be satisfaction of such judgment; but no person shall be more than once imprisoned upon any such judgment or execution.

Co. Civ. Proc.
§3221.
Enforcement
of certain
judgments
in favor of
working
women.

§ 1405. In an action, brought in either of those courts, by a female to recover for services performed by her, if the plaintiff recovers a judgment for a sum not exceeding fifty dollars, exclusive of costs, no property of the defendant is exempt from levy and sale by virtue of an execution against property, issued thereupon; and, if such an execution is returned wholly or partly unsatisfied, the clerk must, upon the application of the plaintiff, issue an execution against the person of the defendant for the sum remaining uncollected. A defendant, arrested by virtue of an execution so issued against his person must be actually confined in the jail, and is not entitled to the liberties thereof; but he must be discharged after having been so confined fifteen days. After his discharge, an execution against his person cannot be issued upon the judgment, but the judg-

ment creditor may enforce the judgment against property, as if the execution, from which the judgment debtor is discharged, had been returned without his being taken.

§ 1406. A defendant cannot be arrested, nor his property sold on execution after twenty days from its issue or renewal, but property levied on within the twenty days may be sold after renewal.

1857, ch. 344 §30.
Comp. 1342.

§ 1407. A marshal is liable to a party in whose favor an execution is issued to him for the amount thereof in the following cases :

Id. §57.
Liability of
marshals.

1. When he suffers the twenty days to elapse without making a true return thereof, and filing the same with the clerk of the court, and paying to him or to the party entitled thereto the money collected thereon by him.

2. When he willfully or carelessly omits to levy on property of the defendant, or if the defendant be liable to arrest, to arrest and imprison him within the twenty days, or having arrested the defendant fails to commit him to the county jail within the twenty days.

§ 1408. Whenever an execution has been returned satisfied in whole or in part, where a transcript of the judgment has been filed in the county clerk's office, a certificate thereof, signed by the clerk of the court in which the judgment was rendered, may be filed in the office of the clerk of the county, who shall thereupon enter satisfaction for the amount so satisfied ; judgments docketed in these courts may be satisfied in the same manner as judgments docketed in courts of record.

Id. §58.
Return of
executions.

§ 1409. Every clerk of these courts must keep a book, denominated a docket, in which must be entered by him :

Id. §59.
What to be
entered in
dockets.

1. The title of every action or proceeding in which a summons, order of arrest, attachment, or precept is issued, or when parties voluntarily appear.

2. The date of the summons, or precept, and the time of its return, and if an allowance of an order of arrest to arrest the defendant or of a warrant to attach his property was made, such facts must also be stated.

3. The time when the parties, or either of them, appeared ; a minute of their pleadings, if in writing, referring to them ; if not in writing, a concise statement of a material part of the pleadings.

4. Every adjournment, stating on whose application, whether on oath, evidence, or consent, and to what time.

5. When a trial by jury is demanded the demand must be stated, and by whom made, and the time appointed for the trial, and the return of the jury.

6. The names of the jury sworn, the names of the witnesses sworn, and at whose request.

7. The verdict of the jury and when received; if the jury disagree and are discharged, that fact must be stated.

8. The judgment of the court, its amount, and the costs in the action.

9. The issuing of execution, when issued, and to whom; the renewals thereof, if any, and when made; the return and when made, and a statement of any money paid to the clerk, and when and by whom.

10. The giving of a transcript to be filed in the county clerk's office, and when given.

11. The receipt of a notice of appeal or order to make or amend a return, stating the time of the receipt thereof.

1857, ch. 344, §60,
Comp. 1343.
Entries in
dockets.
28 How. 12.

§ 1410. The several particulars in the last section specified must be entered under the title of the action or proceeding to which they relate, and at the time when they occur. Such entries in the docket, or a transcript thereof, certified by the clerk or his successor in office, with the seal of the court thereon impressed, are evidence to prove the facts as stated therein.

Id. §61.
Index.

§ 1411. The clerk must keep an index to his docket, in which must be entered the names of the parties to each judgment, with a reference to the page of entry; the names of the plaintiffs and defendants respectively, must be entered in the index in alphabetical order.

Id. §62.
Duty of clerks.

§ 1412. It is the duty of every clerk of these courts to deliver to his successor in office his official dockets and papers on file in his office, as well his own as those of his predecessors which may be in his custody, there to be kept as public records.

Id. §63.
Clerks may
issue execu-
tions.

§ 1413. A clerk with whom the docket of his predecessor is deposited may issue execution on a judgment there entered and unsatisfied, in the same manner and with the same effect as though he was clerk of the court at the time the judgment was rendered.

Id. §64.
Certified copies
of papers shall
be evidence.

§ 1414. A copy of a paper on file in the office of the clerk in either of these courts, certified by him or his deputy as such, shall be prima facie evidence thereof.

Id. §66, Comp.
1343.

§ 1415. Sections eight to thirteen, inclusive, of the code of civil procedure apply to these courts.

1880, ch. 245, §3,
subd. 13.

§ 1416. The following are the fees of these courts, when the plaintiff's demand is less than fifty dollars:

Id. §67,
Comp. 1343.
Fees of courts.

1. For all proceedings when the defendant does not answer, including judgment, transcript, and execution, one dollar and fifty cents.

2. For all proceedings to and including the joining of issue, if an order of arrest or warrant of attachment be issued, one

dollar and fifty cents. If there be no order of arrest or attachment issued, one dollar.

3. For an adjournment, twenty-five cents, to be paid by the party requesting the same.

4. For taking testimony conditionally, or issuing a commission to take the testimony of witnesses out of the city, fifty cents.

5. For all proceedings after issue to and including trial by jury, if there be one, two dollars and fifty cents. If there be no trial by jury, two dollars. 1870, ch. 741, §4

6. For judgment upon the issue and any proceedings afterwards, including transcripts, executions, returns, and all other proceedings and entries, fifty cents.

7. Postage actually paid on serving or receiving a commission to take testimony, and the actual expense of taking the same.

8. For a transcript of the docket of judgment, six cents; for certifying a copy of a paper on file in the clerk's office, ten cents for each folio of one hundred words, except returns upon appeal. 1849, ch. 144,
§11, 12, 13.

9. All necessary disbursements paid by the party recovering judgment.

§ 1417. When the plaintiff's demand is for fifty dollars or more, at the time of issuing any summons, warrant of attachment, or order of arrest, the party applying therefor shall pay to the said clerk the sum of one dollar; and if a trial shall be had in the action so commenced the plaintiff therein shall pay to the said clerk an additional sum of three dollars and fifty cents, which said sums shall be received in lieu of all other fees now required by law to be paid the said clerk. 1837, ch. 344, §68,
as amended
1864, ch. 308,
Comp. 1344.
Demands over
fifty dollars.

§ 1418. In summary proceedings to recover the possession of lands, the fees of officers, except where a fee is specially given in chapter twenty-one of the code of civil procedure, must be at the rate allowed by law in an action in said courts, and are limited in like manner; unless the application is founded upon an allegation of forcible entry or forcible holding out; in which case the judge or justice may award to the successful party a fixed sum as costs, not exceeding fifty dollars, in addition to his disbursements. The final order awarding costs may be docketed, and an execution may be issued to collect the costs awarded thereby, in like manner as if the final order was a judgment, rendered in the court, of which the judge is the presiding officer. 1837, ch. 293, §7,
Comp. 1307.
1870, ch. 741, §4.
Clerk's fees.
Co. Civ. Proc.
§2250.
Amount of
costs; how
collected.

§ 1419. Marshals' fees for services rendered before judgment may be included therein, when it is in favor of the party liable therefor; and in addition to the fees now allowed by law, they shall receive the sum of twenty-five cents for every copy of the 1837, ch. 344, §69,
Comp. 1344.
Marshals' fees.

complaint served by them with the process by which the action is commenced.

Id. §70.
Extra costs.
1868, ch. 617,
§§3, 4.

§ 1420. When the plaintiff's demand is for the recovery of fifty dollars or more, the plaintiff, where the defendant does not appear, shall recover the sum of seven dollars; and in all such cases where an issue shall be joined and a trial had, the sum of twelve dollars as costs, in addition to other fees. If judgment be given against the plaintiff for any cause in any such action, after an appearance by the defendant, the defendant shall recover seven dollars, where judgment is rendered without a trial, and ten dollars where a trial shall have been had, in addition to the other costs, but the plaintiff shall not recover such costs unless judgment be rendered in his favor for fifty dollars or more, nor shall either party be entitled to such costs unless he has an attorney actually engaged in the prosecution or defense of the action. Such costs shall be entered in the judgment, and belong to the party in whose favor the judgment is entered.

Co. Civ. Proc.
§3235.
Costs after discontinuance
upon answer
of title.

§ 1421. Where an action brought in a district court has been discontinued, as prescribed by law, upon the delivery of an answer, showing that title to real property will come in question; and a new action, for the same cause, has been commenced in the proper court; the party, in whose favor final judgment is rendered in the new action, is entitled to costs; except that, where final judgment is rendered therein, in favor of the defendant, upon the trial of an issue of fact, the plaintiff is entitled to costs, unless it is certified that the title to real property came in question on the trial.

1862, ch. 389, §2.
Comp. 1362.
Ten per cent.
may be
allowed.

§ 1422. Upon a recovery being had in an action brought upon a bastardy or abandonment bond, by the commissioners of charities and correction or the overseers of the poor, in addition to the other costs therein, the court shall make and the clerk shall enter in the judgment an additional allowance of ten per cent. on the amount recovered.

1879, ch. 534, §33.

§ 1423. When the action is brought by virtue of the provisions of subdivision eleven of section twelve hundred and eighty-five of this act, the plaintiff shall only be entitled to costs to an amount equal to the amount of the recovery.

Co. Civ. Proc.
§§3131, 3222.
Costs in action
by working
woman.

§ 1424. In an action brought to recover a sum of money for wages earned by a female employee, other than a domestic servant; or for material furnished by such an employee, in the course of her employment, or in or about the subject matter thereof; or for both; the plaintiff, if entitled to costs, recovers the sum of ten dollars as costs, in addition to the costs allowed in a district court, unless the amount of damages recovered is less than ten dollars; in which case, the plaintiff recovers the sum of five dollars as such additional costs. Where the em-

ployee is the plaintiff in such an action, she is entitled, upon a settlement thereof, to the full amount of costs, which she would have recovered, if judgment had been rendered in her favor, for the sum received by her upon the settlement.

§ 1425. Whenever a justice of the court of common pleas shall order the bond of a marshal to be prosecuted in any of the district courts, the said justice upon said motion may award the aggrieved party his reasonable costs on such motion, not exceeding the sum of ten dollars, which shall be included in the judgment obtained upon such bond.

1862, ch. 484, §7.
Comp. 1476.
Where bond
may be prosecuted.

§ 1426. The rules and regulations of the supreme court shall apply to the district courts, as far as the same can be made applicable, and such changes, alterations, and additions as shall be from time to time made in and to said rules and regulations by said supreme court, shall affect the said district courts in the same manner as the said supreme court is affected by them; and such alterations, changes, and additions shall be as binding upon said courts as upon the said supreme court.

1862, ch. 484, §3.
Comp. 1352.
Rules, etc., of
supreme court
applied to district
courts.

§ 1427. There shall be a clerk and an assistant clerk in each of the district courts, who shall be appointed by the justices of said courts, respectively; they shall hold office for the term of six years from the date of appointment. The said clerk and assistant clerk shall each receive a salary of three thousand dollars per annum. The comptroller is authorized and directed to pay the salary of the clerks, in monthly installments, out of the city treasury. The clerk, the assistants, or deputy clerks, and all other attendants of said courts, shall receive no fees or compensation for their own use whatever, for any services by them performed by virtue of their offices other than their salaries.

1872, ch. 438,
§§1, 3,
Comp. 1366.
Clerks of district
courts,
how appointed.
67 N. Y. 521;
49 How. 280;
62 N. Y. 375;
Salaries.
Comptroller to
pay salaries.
Clerks, etc., not
to receive fees.

§ 1428. It shall be the duty of the clerk of each of these courts:

1857, ch. 344, §72.
Comp. 1344.
Duties of
clerks.

1. To keep the seal of the court, and affix it to the certificate of the transcript of the docket of judgment, or any other certificate, when required so to do.

2. To record the proceedings of the court.

3. To keep the records and other books appertaining to the court.

4. To file papers delivered to him for that purpose in any action.

5. To attend the sitting of the court of which he is clerk, to administer oaths in an action, in the presence of the court and under its direction, and to receive the verdict of the jury.

6. To authenticate by certificate or exemplification as may be required, the records or proceedings of the court, or any other paper appertaining thereto and filed with him.

7. To exercise the powers and perform the duties conferred and imposed upon him by this title.

8. In the performance of his duties to conform to the direction of the court.

Office hours.

9. To keep his office open for the transaction of business, every judicial day, from nine o'clock in the forenoon to four o'clock in the afternoon.

Id. §73.
Comp. 1345.
Payment of
fees into
treasury.
1870, ch. 335, §2.
Comp. 1336.

§ 1429. It shall be the duty of the clerk of each of these courts to collect and receive all the fees thereof, including the fees allowed by law in summary proceedings to recover lands, and to account for and pay the same into the city treasury, monthly, under oath, on the first day of each and every month, or within three days thereafter, which account shall contain the title of each case and the amount of fees received therein, and the salary of such clerk shall not be paid until he shall have so accounted and paid, and he shall perform no service until he shall have received the legal fees thereof.

1857, ch. 344, §74.
Comp. 1345.
Official bonds
of clerks.

§ 1430. Every clerk hereafter appointed shall, before he enters on the performance of his duty, execute and file with the clerk of the city and county of New York a bond in the penal sum of five thousand dollars, with two or more sufficient sureties, to be approved by the mayor or one of the judges of the court of common pleas (such approval to be indorsed thereon), to the effect that he will faithfully perform the duties of his office, and pay into the city treasury all moneys he may receive, belonging to the city, and to pay all moneys that may be deposited with him in any action to the party entitled to the same. For any and every breach of this bond the court of common pleas, or a judge thereof, may order the same to be prosecuted in the name of any person entitled to such money.

Id. §75.
Oaths.

§ 1431. The clerk of each of these courts is authorized to administer oaths in the city of New York in the same manner and with like effect as if he was a clerk of a court of record.

1853, ch. 529, §1.
1857, ch. 344, §85.
Comp. 1345.
1880, ch. 321, §2.

§ 1432. Each justice appoints the officers necessary to attend the court. Such officers or attendants appointed before May twenty-ninth, eighteen hundred and eighty, receive an annual salary of twelve hundred dollars. Such officers or attendants appointed after May twenty-ninth, eighteen hundred and eighty, receive an annual salary of one thousand dollars.

1866, ch. 745, §1.
Comp. 1350.
Appointment
of interpreter.

§ 1433. The several justices of the district courts are authorized and empowered to appoint an officer for each district court, who shall be known and designated as district court interpreter, and who shall hold office during the pleasure of the justice of the court to which he is appointed. The interpreters shall each receive an annual compensation of twelve hundred dollars.

Id. §3.
Salary of.

§ 1434. The justices of the district courts are respectively authorized to appoint a stenographer in their several courts, whose duty it shall be to take full stenographic notes of all proceedings in trials had therein; he shall hold his office during the pleasure of the justice of the court, and shall receive a salary of two thousand dollars per annum.

Co. Proc. §86,
as amended
1870, ch. 741, §4.

§ 1435. The justice of each district court is authorized and empowered to appoint a janitor for such court, who shall hold office during the pleasure of and be subject to the direction of the justice of the court for which he is so appointed. He shall be paid a yearly salary of nine hundred dollars.

Justice to
appoint janitor.
1880, ch. 392, §1.

Salary.

§ 1436. The city shall furnish at its expense rooms, furniture, blanks, stationery, and fuel for these courts.

1887, ch. 344,
§65, Comp. 1343.

§ 1437. Words used in this title in the past or present tense include the future as well as the past or present; words used in the masculine gender include the feminine and neuter; the singular number includes the plural and the plural the singular; the word "person" includes a corporation as well as a natural person; writing includes printing or printing paper; "oath" includes affirmation or declaration; "signature" or "subscription" includes "mark," when the person cannot write, his name being written near it, and witnessed by a person, who shall write his own name as witness. The following terms also named in this title have the signification attached to them in this section, unless otherwise apparent from the context:

Id. §80,
Comp. 1346.
Application of
words.

1. The word "attorney" signifies an attorney of the supreme court of this State, duly licensed to practice as such.

2. The word "district" signifies judicial district.

3. The word "clerk" signifies the clerk of the court where the action is pending.

4. The word "marshal" signifies any person authorized to perform the duties of a marshal.

5. The word "corporation" includes every association having any corporate rights, whether created by special acts of legislature or under general laws.

§ 1438. An appeal from a judgment may be taken in the cases and in the manner prescribed in articles first and second of title eighth of chapter nineteenth of the code of civil procedure, with respect to an appeal to a county court from a judgment rendered by a justice of the peace, and not otherwise. Such an appeal must be taken to the court of common pleas.

Co. Civ. Proc.
§3213.
Appeals.

§ 1439. In all cases of appeal from the decision of a justice of one of the district courts, where a transcript of the stenographer's minutes of the testimony given on the trial becomes a necessary part of the justice's return, the stenographer's fees for the making of such transcript shall be computed at the rate of ten cents

1874, ch. 504, §1,
Comp. 1359.
Stenographer's
fees.

for every one hundred words, and be paid in the first instance by the appellant, and afterward be taxable by him as a disbursement in the appeal.

1837, ch. 461, §5,
Comp. 1835.
Transcript of
process, etc.,
certified, to be
evidence.

§ 1440. A transcript of the process, pleadings, and judgment had before any of the said justices, of the execution issued thereon, if any, and the return thereon, if any, when subscribed and certified by the justice or clerk, and a certificate of the clerk of the city and county of New York indorsed thereon or attached thereto, under the seal of the court of common pleas of the said county, certifying that the person subscribing such transcript was, at the date of such judgment, such justice or clerk, shall be prima facie evidence in any court of justice in this State to prove the facts contained in such transcript, and no more.

Title 7.—Crimes and Criminal Procedure.

1831, ch. 413, §§1,
2, Comp. 1433.
Nuisances near
boundary lines.

§ 1441. Whenever any nuisance shall be erected or continued on or near the boundary lines of the counties of New York, Westchester, and Queens, the same, and the persons by whom such nuisance shall have been erected or continued, may be indicted in either county injuriously affected thereby; and thereupon the same proceedings shall be had and taken, and the sentence of the court may be enforced in the same manner as if the said nuisance was situated within the county in which the indictment was found. The record of any conviction under this section shall be filed in the clerk's office of the county in which such nuisance is located; and thereupon process shall be issued to the sheriff of such county to abate such nuisance in the same manner as if the conviction was had in the county in which the record was filed.

Record of con-
viction to be
filed.

4 R. S. ch. 2,
tit. 1, §22,
Comp. 112.
Jurisdiction of
criminal courts
in New York.

§ 1442. The whole of the Hudson river, southward of the northern boundary of the city of New York, and the whole of the bay between Staten Island and Long Island, shall so far be deemed within the jurisdiction of the city and county of New York that all offenses shall be cognizable in the courts of criminal jurisdiction held in and for the said city and county.

1833, ch. 11, §11,
Comp. 1408.
Punishment for
second offense.

§ 1443. If any person convicted of an offense, punishable by imprisonment in a State prison, shall be discharged, either upon being pardoned or upon the expiration of his sentence, and shall subsequently be convicted in the said city of New York of petit larceny, or of an attempt to commit an offense, which, if committed, would be punishable by imprisonment in a State prison, then the person convicted of such subsequent offense may be punished by imprisonment in the penitentiary of the said city, or in a State prison, in the discretion of the court before whom

such subsequent conviction shall be had, for a term not exceeding five years.

§ 1444. Every person having been convicted of petit larceny, or of an attempt to commit an offense, which, if perpetrated, would be punishable by imprisonment in a State prison, and having been pardoned or otherwise discharged, who shall subsequently be convicted in the said city of New York of petit larceny, or of any attempt to commit an offense, which, if perpetrated, would be punishable by imprisonment in a State prison, may be sentenced by the court before whom such conviction may be had, in its discretion, to imprisonment either in the penitentiary of the said city or in a State prison for a term not exceeding five years.

Id. §12.
Ib.

§ 1445. If any person in said city and county shall be found by night armed with any dangerous or offensive weapon or instrument whatsoever, with intent to break or enter into any dwelling-house or other building whatsoever, and to commit any larceny or felony therein, or with the intent to commit any larceny or felony; or if any person shall be found, by night, having in his possession any pick-lock, key, crow, jack, bit, jimmy, nippers, pick, betty or other implement of burglary with the intent aforesaid; or if any person shall be found, by night, in any dwelling-house or other building whatsoever, with intent to commit any larceny or felony therein, under such circumstances as shall not amount to an attempt to commit felony, every such offender shall be deemed guilty of a misdemeanor. If any person shall commit any such offense after a previous conviction, either for felony or petit larceny, or such misdemeanor as aforesaid, he shall be deemed guilty of felony, and may be punished by imprisonment in a State prison not to exceed five years.

1860, ch. 508, §18,
Comp. 1416.
Persons found
armed with evi-
dent intention
to commit
felony, guilty of
misdemeanor.

When deemed
a felony.

§ 1446. Whenever any larceny shall be committed in said city and county, by stealing, taking and carrying away from the person of another, the offender may be punished as for grand larceny, although the value of the property taken shall be less than twenty-five dollars. Attempts under similar circumstances may be punished as for attempts to commit grand larceny.

1860, ch. 508, §33,
Comp. 1418.
Robbery from
person deemed
grand larceny.

§ 1447. Every person who shall lay hand upon the person of another, or upon the clothing upon the person of another, in said city and county, with intent to steal, as a pickpocket, under such circumstances as shall not amount to an attempt to rob, or an attempt to commit larceny, shall be deemed guilty of an assault with intent to steal, and shall be punished as is now provided by law for the punishment of misdemeanors. It shall not be necessary to allege or prove, in any prosecution for an offense under this section, any article intended to be stolen, or the value thereof, or the name of the person so assaulted.

Id. §34.
Pickpockets.

1833, ch. 11, §5
Comp. 1407.
Riding through
the streets.

§ 1448. Any person who shall drive or ride any horse through any street, lane, alley or public place in the city of New York with greater speed than at the rate of five miles an hour, shall be deemed guilty of disorderly conduct, and upon conviction thereof by any such magistrate, either upon the confession of the party or competent testimony, may be fined for such offense any sum not exceeding ten dollars, and in default of payment of such fine, may be committed to prison by such magistrate until the same be paid, but such imprisonment shall not exceed ten days.

1876, ch. 700, §2,
Comp. 460.
Cattle, etc., not
to go on side-
walks.

§ 1449. 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 sidewalks in said city, and any person violating any provision of this section shall be deemed guilty of a misdemeanor, and on conviction be punished by a fine of not less than ten, nor more than fifty, dollars, or by imprisonment in the penitentiary for not more than thirty days, or by both such fine and imprisonment.

1867, ch. 625, §2
Comp. 346.
Penalty for
defacing public
urinals.

§ 1450. Every person defacing or damaging public urinals maintained by the department of public works, or writing or posting notices, figures or devices thereon, shall, on conviction before any police justice, be subject to a penalty of fifty dollars, or imprisonment for the term of three months in the penitentiary, in the discretion of said justice.

1890, ch. 353,
§§1, 5.
Soliciting pat-
ronage for
hotels, etc., on
docks, etc., pro-
hibited without
license.

§ 1451. Any person who shall, without having obtained a license as provided by law, carry on the business, or engage in the occupation of soliciting, upon any street, public highway, dock or pier, or in any park or square in the city of New York, or upon any water adjacent thereto, over which said city has jurisdiction, patronage for any hotel or inn, or passengers or patronage for any steamer, steamboat, ship, vessel or railroad, or for any person or corporation selling or offering for sale passage tickets, or contracting, or offering to contract, for passage in any such steamer, steamboat, ship, vessel or railroad, shall be deemed guilty of a misdemeanor, and shall be punished by imprisonment for not less than three months nor exceeding one year.

1890, ch. 353, §4
Licensed per-
sons to wear
badge.

§ 1452. Every licensed person, whenever employed in soliciting passengers or patronage for steamers, steamboats, ships, vessels or railroads, or patronage for hotels or inns, shall wear conspicuously upon his coat a metal badge containing the number of his license, said badge to be of such form and to bear such further inscription as shall be prescribed by the mayor of the city. If he shall fail to comply with the provisions of this section he shall be liable to a fine of not less than twenty-five dollars for each offense, and shall also forfeit his license. No

Id. §5.

person not duly licensed as aforesaid shall wear any such badge, or any badge purporting to be that of a licensed runner or solicitor, under a penalty of twenty-five dollars for each offense.

Penalty for
false rep-
resentation.
1880, ch. 353, §4.

§ 1453. Whenever a conviction shall be had in any criminal court in the city of New York, of any person for buying or receiving any personal property feloniously stolen from another, knowing the same to have been stolen, such person may be sentenced, in the discretion of the court, to imprisonment in the penitentiary of the said city for the same term of time for which such person may by law be sentenced to imprisonment in a State prison.

1883, ch. 11, §13.
Comp. 1406.
Buying stolen
property.

§ 1454. All persons who may have actually abandoned their wives or children in the city of New York, without adequate support, or in danger of becoming a burden on the public, or who may neglect to provide, according to their means, for their wives or children, are hereby declared to be disorderly persons within the meaning of title fifth of chapter twentieth of part first of the revised statutes, and may be proceeded against as such in the manner directed by the said title. And it shall be the duty of the magistrate before whom any such person may be brought for examination, to judge and determine from the facts and circumstances of the case, whether the conduct of any person amounts to such desertion or neglect to provide for his wife or children.

Id. §7.
Comp. 1407.
Persons who
abandon their
wives or
children.

§ 1455. Every person who shall threaten to abandon, or who shall have actually abandoned his family, wife, or child in the city of New York without adequate support, or in danger of becoming a burden upon the public, or who may neglect to provide, according to his means, for his family, or any member of said family, is hereby declared a disorderly person.

1880, ch. 508, §3.
Comp. 1412.
Disorderly
persons.

§ 1456. In case of the conviction of any such person as a disorderly person, the magistrate convicting shall make an order specifying a certain sum to be paid to the commissioners of charities and correction of said city, weekly, for and towards the support of the family of said defendant; and all provisions of law in relation to the enforcement of orders for the support of bastard children in said city, after conviction, shall, as far as practicable, apply to the enforcement of any order made in pursuance of this section, by the magistrate convicting; except that the order shall be for the stated period of one year, and that any appeal from, or amendment to said order, shall be exclusively for the action of the court of special sessions.

Id. §4.
In case of con-
viction.
9 Hun, 212.

§ 1457. No person who shall have been convicted as a disorderly person, as aforesaid, and who shall have been committed to prison, in pursuance of the provisions of the preceding section

Id. §5.
How dis-
charged.

shall be discharged therefrom, without the written approval of the magistrate making the commitment; except he be discharged by a court of competent jurisdiction, or other legal proceedings for that purpose.

1860, ch. 508, § 20,
Comp. 1416.
What deemed
disorderly con-
duct.

§ 1458. Every person in said city and county shall be deemed guilty of disorderly conduct that tends to a breach of the peace, who shall in any thoroughfare or public place in said city and county commit any of the following offenses, that is to say:

Unmuzzled,
vicious dogs.

1. Every person who shall suffer to be at large any unmuzzled, ferocious, or vicious dog.

Prostitutes.

2. Every common prostitute or nightwalker loitering or being in any thoroughfare or public place for the purpose of prostitution or solicitation, to the annoyance of the inhabitants or passers-by.

Threatening or
insulting be-
havior.

3. Every person who shall use any threatening, abusive, or insulting behavior with intent to provoke a breach of the peace or whereby a breach of the peace may be occasioned.

Id. § 25.
Comp. 1417.
Arrest of dis-
orderly per-
sons.

§ 1459. Whenever it shall appear, on oath of a credible witness before any police justice in said city and county, that any person in said city and county has been guilty of any such disorderly conduct as in the opinion of such magistrate tends to a breach of the peace, the said magistrate may cause the person so complained of to be brought before him to answer the said charge.

1813, ch. 86, §§ 39,
40, Comp. 1428.
Disorderly per-
sons, how dis-
charged.

§ 1460. It shall and may be lawful for the recorder or either of the police justices to discharge any disorderly person, on his or her entering into a bond or recognizance, with such security and to such an amount as may be deemed proper (but if not thought necessary may be dispensed with) to the mayor, aldermen, and commonalty of the city of New York, conditioned that such disorderly person shall leave the State within a given time, and not return again within a certain given time, to be specified in such bond or recognizance, and also to be of good behavior during the time he or she shall remain in the said city, previous to his or her leaving the same. All such bonds or recognizances entered into as aforesaid shall be lodged in the office of the clerk of the said city of New York, and on a breach of the condition thereof it shall be lawful to sue and recover on any such bond or recognizance in any court having cognizance thereof.

Bonds or
recognizances.

1833, ch. 11, § 8,
Comp. 1407.
Surety for good
behavior.

§ 1461. In all complaints before any magistrate in the city of New York, for disorderly conduct, it shall be lawful for such magistrate, if in his opinion such disorderly conduct tends to a breach of the peace, to require the party against whom such conduct may be proved, either by his or her own confession, or by competent testimony, to give sufficient surety or sureties, for his or her good behavior, for any term not exceeding twelve

months, and the magistrate who may have required such surety or sureties may, in his discretion, at any time discharge the same.

§ 1462. Any person convicted as a disorderly person must be committed by the magistrate to the city prison or penitentiary for not exceeding six months at hard labor, or until he give the security required by law or either.

1881, ch. 442.
§§903, 911.

§ 1463. If any child shall be found in a state of want and suffering, or being abandoned or improperly exposed, or neglected by its parents, or such other person as may have it in charge, or begging for alms, or soliciting charity from door to door, or in any street, highway, or public place within the city, the recorder or any police justice shall, on complaint and competent proof thereof, commit such child to the alms-house or other place provided for the support of the poor, to be kept employed and instructed in useful labor, until discharged by the commissioners of charities and correction, or until bound out by said commissioners as an apprentice by them; and the aforesaid provisions shall extend to the children of all such persons as may be convicted of being common prostitutes, or keepers of bawdy-houses, or houses for the resort of common prostitutes.

1833, ch. 11, §18.
Comp. 1409.
Children abandoned by parents.

1881, ch. 442 §893.

§ 1464. All persons who, being habitual drunkards, are destitute and without visible means of support, or who, being such habitual drunkards, shall abandon, neglect, or refuse to aid in the support of their families, who may be complained of by such families; all persons who shall have contracted an infectious or other disease in the practice of drunkenness or debauchery requiring charitable aid to restore them to health; all common prostitutes, who have no lawful employment whereby to maintain themselves; all able-bodied or sturdy beggars who may apply for alms or solicit charity; all persons wandering abroad, lodging in watch-houses, out-houses, market places, sheds, stables, or uninhabited buildings, or in the open air, and not giving a good account of themselves; all persons wandering abroad and begging, or who go about from door to door, or place themselves in the streets, highways, passages, or other public places, to beg or receive alms, within the said city, shall be deemed vagrants.

1833, ch. 11, §1.
Comp. 1406.
Persons who shall be deemed vagrants.

§ 1465. It shall be the duty of every peace officer, whenever required by any person, to carry, convey, or conduct such vagrant before the recorder or one of the police justices, for the purpose of examination. If such magistrate be satisfied by the confession of the offender or competent testimony, that such person is a vagrant within the description aforesaid, he shall make up and sign a record of conviction thereof, which shall be filed in the office of the clerk of the court of sessions; and shall by war-

Id. §52, 3.
Examination.

Committed to alms-house or penitentiary.

rant, under his hand, commit such vagrant, if not a notorious offender, and he be a proper object for such relief, to the alms-house for any time not exceeding six months, there to be kept at hard labor; or if the offender be an improper person to be sent to the alms-house, then such person shall be committed for the like time to the penitentiary.

1867, ch. 409, § 1.
Comp. 1411.
When females
may be sent to
House of
Mercy, etc.

§ 1466. Whenever any female between the ages of fourteen and twenty-one years, shall be brought by the police, or shall voluntarily appear before a committing magistrate in the city of New York, charged with being a prostitute, or admitting herself to be such, and professing a desire to reform, and it shall appear that such female has never been an inmate of the penitentiary, such magistrate shall make an order, that in lieu of being committed to the work-house or penitentiary, the said female shall be removed to and detained in one of the following institutions, viz.: The Protestant Episcopal House of Mercy, New York; the Roman Catholic House of the Good Shepherd, foot of Eighty-ninth street; or the Magdalen Female Benevolent Asylum and Home of Fallen Women, provided that the magistrate shall designate in such order as the place of detention such one of the institutions above named as may be selected by the person so committed, unless notice shall have been received from such institution that there is not room for the reception of further inmates.

1844, ch. 315,
art 4, § 11.
Comp. 1431.
Provision in
case of offenses
committed
against
non-residents.

§ 1467. In cases of offenses committed in the city and county of New York upon persons being, at the time of the offense committed, in the said city and county, and being non-residents of the said city and county, either upon the person of such non-residents or by taking or receiving from such non-residents money or property, the district attorney may apply to any judge of said city and county, possessing the powers of the supreme or superior court or court of common pleas, for an order to take the testimony, de bene esse, of all witnesses in the matter being in but not residing in said city and county; such judge, in his discretion, may grant an order so to take such testimony, which order shall specify the length of notice of such examination that shall be given to the accused. The district attorney shall serve upon the accused the notice so directed by such judge, the witness shall be examined in the presence of the accused, his direct and cross-examinations shall be reduced to writing in questions and answers, and shall be signed by the witness and certified by the judge; the examination shall, by the officer taking the same, be filed in the office of the clerk of the court of sessions in the city and county of New York, and may be used before a grand jury, and all courts and tribunals having jurisdiction of the subject-matter, in the same manner and with the like effect as the witness could be, were he personally pres-

Notice to be
served on
accused.

ent upon the trial of the accused; all questions may be raised as to the admissibility of the testimony of the witness, and to questions and answers that could be raised to witness and his examination in open court.

§ 1468. The examination of a non-resident witness, or a witness about to depart beyond the jurisdiction of the court, may, on the application of the district attorney, or the party accused, upon his giving notice to the district attorney, be taken in the manner provided in the last section.

1846, ch. 332, §9.
art. 3.
Comp. 1432.
Witnesses.

§ 1469. In all cases in which, by the provision of titles first and second of chapter second of part fourth of the revised statutes, any magistrate in the city of New York might require any person to enter into a recognizance, with sufficient surety or sureties, to appear at the next court of general sessions, it shall be lawful for any such magistrate, either in addition thereto or in lieu thereof, to require any such person to enter into a recognizance, with sufficient surety or sureties, to keep the peace to the people of this State, and particularly to any person requiring such security for a term not exceeding twelve months; and in default of giving such recognizance, with sufficient surety or sureties, to commit such person until the same may be entered into, and the magistrate who may have required such sureties may, in his discretion, at any time discharge the same.

1833, ch. 11, §6.
Comp. 1407.
Recognizances
to keep the
peace.

§ 1470. Every recognizance taken by any court, or by any magistrate, coroner, or other officer, to appear and answer at any court, and the complaint, inquisition, affidavits, and other papers upon which such recognizance is founded, shall be filed in the office of the clerk of the court at which the party is thereby recognized to appear, within ten days after the same is so taken.

1861, ch. 333, §2.
Comp. 1423.
Filing
recognizances.

§ 1471. Whenever a recognizance to keep the peace or to be of good behavior shall be ordered by any magistrate or court in said city and county, the said magistrate or court may require the person so ordered to enter into such recognizance, to pay one dollar as the costs of such proceeding, and in default of payment thereof, may commit the person so ordered to prison until the same be paid, for a period not to exceed one day. All costs collected in pursuance of this section shall be paid over forthwith, if collected in a court of record, to the clerk of such court; and if collected in a police court or elsewhere, to the chief clerk of the police court of the district in which such costs shall have been levied. All moneys so collected shall be paid over to the city treasury, in like manner and for a like purpose as other costs, fees, fines, or emoluments are now directed by law to be paid by such clerks.

1860, ch. 508, §16.
Comp. 1415.
Costs, by whom
paid.

When and to
whom paid.

Moneys to be
paid into
treasury.

1860, ch. 508, §1.
Comp. 1412.
Recognizances
to keep the
peace.

When recogni-
zance has been
violated.

Forfeiture.

§ 1472. Every recognizance to keep the peace, or to be of good behavior, or for both (except such recognizances for good behavior as shall be taken on conviction of disorderly persons, and such recognizances to keep the peace as shall be made returnable to the court of general sessions of the peace), that shall be entered into in the city and county of New York, shall be forthwith filed in the office of the clerk of the court of special sessions; and whenever it shall appear that any such recognizance has been violated, it shall be the duty of the district attorney in said county to move before the said court of special sessions for the forfeiture of the recognizance. The said court of special sessions may, upon proof of the violation of any such recognizance, direct the same to be forfeited, by an order entered in their minutes; and the clerk of said court shall return the said recognizance, when forfeited, with a certified copy of the minutes of forfeiture, to the said district attorney, that it may be prosecuted. Any act or behavior on the part of the principal in such recognizance which would have been cause for an order to find surety for good behavior or to keep the peace in the first instance, shall be deemed a breach of the condition of such recognizance.

1860, ch. 508, §18.
Comp. 1415.
Fines, where
paid.

§ 1473. Whenever any recognizance to keep the peace, or to be of good behavior, shall be discharged before the expiration of the period for which it shall have been taken, the court or magistrate discharging may require, as a condition of such discharge, that a fine not to exceed the amount a police justice in said city is authorized to inflict for disorderly conduct tending to a breach of the peace, shall be paid, for the use of the city of New York. And all fines so paid into any police court of said city, or into the court of special sessions aforesaid, shall be paid into the city treasury, under like provisions as exist for the payment of fines collected in either of said courts for the use of said city.

1860, ch. 508, §7.
Comp. 1413.
Breach of
recognizance.

§ 1474. Whenever complaint on oath or in writing shall be made before any one of the police justices, that any person has committed a breach of the condition of any recognizance, the forfeiture and prosecution of which is provided for in section fourteen hundred and seventy-two, the said justice may issue his warrant for the arrest of said persons so complained of; and upon said person being brought before him, the said justice shall proceed in the same manner, as far as practicable, as is prescribed by law for the prosecution, examination, discharge, committal, or bailing of persons charged with misdemeanors before police justices in said city. In case the person so complained of cannot be found within thirty days it shall be the duty of said police justice to return said complaint to said court of special sessions in the same manner as complaints for misdemeanors are returned, with his certificate of the fact; and the said court of

1881, ch. 442,
§596.

special sessions shall proceed thereupon as provided in sections fourteen hundred and seventy-five, fourteen hundred and seventy-seven and fourteen hundred and seventy-eight.

§ 1475. Upon such complaint, mentioned in the preceding section, being sent to said court of special sessions, the said court shall thereupon proceed to examine and determine the same, in like manner as complaints in cases of misdemeanors are heard and determined in said court; and if it shall appear to said court that the principal in such recognizance has committed a breach of the condition of such recognizance, the said court shall thereupon pronounce such judgment, and that the recognizance be forfeited as aforesaid.

1860, ch. 508, §8.
Comp. 1444.
Court of special
sessions to ex-
amine into.

§ 1476. The recognizance taken from any person so complained of, in pursuance of the provisions of the last section but one, shall be exclusively for appearance at the court of special sessions aforesaid, and it may, as well as any other recognizance which the said justices may be authorized to take for the appearance at said court of sessions of any person charged with a criminal offense, or with any misconduct whatever, require as a condition of such recognizance, that in the meantime and until such recognizance shall have been discharged, the said person so recognized shall keep the peace or be of good behavior, or both, towards the people of the State of New York; and such recognizances shall be subject to forfeiture and prosecution in like manner as is provided in section fourteen hundred and seventy-two for the forfeiture and prosecution of recognizances by the court of special sessions and district attorney aforesaid.

Id. §9.

Recognizance
for appearance.

§ 1477. Whenever it shall appear to the said court of special sessions that any breach of the conditions of any recognizance has been made, the forfeiture and prosecution of which is provided for in sections fourteen hundred and seventy-two, or fourteen hundred and seventy-six, the said court shall have power to cause the principal in said recognizance to be brought before it. If it shall appear that the principal cannot be found, then the said court shall cause reasonable notice to be given to the surety or sureties; who, if the principal does not appear may come in and defend, but in case there be no appearance of principal or surety after such notice, or no defense, the said court may proceed to examine and determine the said matter with the like power, force, and effect as if the principal or surety, or both, were present and defending.

Id. §10.
Breach of con-
ditions.

§ 1478. Whenever any person shall have been recognized to appear at the said court of special sessions, and shall have appeared as bound by such recognizance, and said court shall have heard the matter in pursuance of which such recognizance shall have been taken the said court may, in its discretion, and if the

Id. §11.
Further recog-
nizance.

circumstances of the case seem to demand it, determine and require that the principal in such recognizance do enter into a further recognizance to keep the peace, or to be of good behavior, or both, towards the people of the State of New York for a period not to exceed one year; and in default thereof, commit said principal to prison till he be discharged therefrom according to law. The provisions of this section shall also apply, as far as practicable, to any person who shall come before said court, with or without process, for any misdemeanor or misconduct whatever.

Act to apply
in other cases.

1860, ch. 508, §14,
Comp. 1415.
Prosecution of
recognizances.

§ 1479. All provisions of law in relation to the prosecution of recognizances for appearance of persons charged with crimes and misdemeanors in said city, after forfeiture, shall, as far as practicable, apply to the prosecution of any recognizance provided for by section fourteen hundred and seventy-four.

1814, ch. 815,
art. 4, §8,
Comp. 1426.
Recognizances,
when forfeited,
where filed.
3 Daly, 365: 59
N. Y. 88;
7 Hun, 235.
See 1861, ch.
233.
§3, Comp. 1428.

§ 1480. All recognizances given to answer to a charge preferred, or for good behavior, or to appear and testify in all cases cognizable before any court of criminal jurisdiction, on being forfeited, shall be filed by the district attorney, together with a certified copy of the order of the court forfeiting the same, in the office of the clerk of the said city and county, and thereupon the said clerk shall docket the same in the book kept by him for docketing of judgments, transcripts whereof are filed with him as such clerk, as if the same was the transcript of a judgment record for the amount of the penalty; and the recognizance, and the certified copy of the order forfeiting the recognizance, shall be the judgment record; such judgment shall, in good faith, be a lien on the real estate of the persons entering into such recognizance, from the time of filing said recognizance and copy, order and docketing the same, as in this section directed; an execution may be issued to collect the amount of said recognizance, in the same form as upon a judgment recovered in the court of common pleas of said city and county, in an action of debt, in favor of the people against the persons entering into such recognizance.

1844, ch. 315, §9,
Comp. 1426.
Costs and fees.

§ 1481. All the costs and fees to be charged for entering such judgment and filing the necessary papers, shall be the usual fees to the clerk for filing papers and entering judgments; the district attorney shall receive no fee or compensation for his services in the matter, his salary being deemed compensation for all such services.

1876, ch. 316, §1,
Comp. 1429.
Vacation of
judgment on
forfeited
recognizances.

§ 1482. The court of common pleas, upon the certificate of the district attorney that the people of the State of New York have lost no rights by reason of the failure of a surety to produce a principal in compliance with the terms of a recognizance given by them, and that by reason of the principal being pro-

duced the said people of the State of New York are in as good a position to prosecute said principal as when such failure occurred, may, upon such terms as are just, by order, vacate and set aside any judgment heretofore entered, or that may be hereafter entered, upon the forfeiture of such recognizance against such principal or surety, or either of them, on payment to the chamberlain of all costs included in such judgment, and of all expenses incurred in the apprehension or recapture of such principal.

§ 1483. Any one of the judges presiding at the court of general sessions of the peace in and for the city and county of New York, and any justice presiding at court of oyer and terminer in said county in whichever court any recognizances shall be forfeited may, upon the certificate of the district attorney that the people of the State of New York have lost no rights by reason of the failure of a surety to produce a principal in compliance with the terms of a recognizance given by them, and that by reason of the principal being produced the said people of the State of New York are in as good a position to prosecute said principal as when such failure occurred, whether such principal has been tried or whether a nolle prosequi has been entered or not, by order vacate and set aside or modify any judgment heretofore entered or that may be hereafter entered upon the forfeiture of such recognizance against such principal and surety, or against either, and as to either, on payment to the chamberlain of all costs included in such judgment or judgments, and of all expenses incurred in the apprehension or recapture of such principal, and if such fine shall have been paid or judgment collected, in whole or in part, upon such forfeited recognizance, the court may, in its discretion, direct the same or any part thereof to be remitted, and the officer, district attorney, or chamberlain, in whose hands the money remains, must pay the same or the part remitted, according to the order, retaining the costs, if any, as aforesaid.

1878, ch. 379, §1,
as amended
1879, ch. 481, §1.
Comp. 1430.
When judgments on forfeited recognizances may be vacated.

Repayment of fine.

§ 1484. The clerk of the county where said judgment is docketed, upon the receipt of a duly certified copy of the order of such court vacating, remitting, or modifying such judgment, shall enter the same upon his docket, and the judgment referred to in said order shall thereupon be and become vacated, remitted, or modified in accordance with the terms of said order.

Id. §2.
Clerk to enter order.

§ 1485. Whenever any magistrate in said city and county shall make an order requiring any person to enter into a recognizance for his appearance at any court in said city and county, the said magistrate may authorize any other magistrate of said city and county to let said person to bail, either before or after commitment; and any recognizance so taken shall be of the

1860, ch. 508, §12.
Comp. 1416.
Magistrates may let to bail.

same power, force, and effect as if taken by the magistrate making the order.

1833, ch. 11, §9,
Comp. 1408.
Power of police
justices.

§ 1486. The police justices shall respectively have power to let to bail, before indictment, in all cases where a judge of the court of general sessions in the said city is authorized by law to let to bail.

1846, ch. 302,
art. 3, §8,
Comp. 1425.
Bail, by whom
to be taken.

§ 1487. No officer, other than the committing magistrate, shall let to bail any person charged with a criminal offense, unless notice of the application to bail such person shall have been given to the district attorney of the city and county of New York, at least two days before such application, specifying the name of the officer, the time and place when and where such application will be made, and the names and residence of the proposed bail, and the original commitment and proofs upon which it is founded, shall have been presented to the officer to whom the application for bail is made. The persons having the custody of such commitment and proofs shall, when required in writing, produce the same before the officer last mentioned.

1844, ch. 313, §4.
Comp. 2038.
Habeas corpus.

§ 1488. There shall be no costs or fees charged or received upon any proceeding upon writs of habeas corpus, either by the judge granting them, or by the officer serving them, or the jailor obeying their orders; and the judge before whom the matter shall be heard, shall, if the case be bailable, and the amount of bail shall have been fixed by the committing magistrate, only determine whether the party is lawfully committed, or is legally chargeable with the offense imputed, and shall not adjudicate upon the question of bail. The amount of bail ordered by the committing magistrate shall in such cases only be altered by a court having jurisdiction of the offense for which the prisoner was committed; and any officer violating the provisions of this section shall be guilty of a misdemeanor, and shall be subject to the pains and penalties for such offense.

Bail.

1846, ch. 302,
art. 3, §7,
Comp. 1425.
Provision re-
specting bail.

§ 1489. No officer authorized to let to bail a person charged with any criminal offense shall accept as bail any member of the police department, keeper, assistant keeper, or turnkey of any prison or place of detention for persons charged with any criminal offense, or any attorney or counsellor practicing in the court of sessions.

1861, ch. 333, §1.
Comp. 1428.
When fines re-
duced or remit-
ted.
59 N. Y. 83.

§ 1490. No fine imposed by any court, for any criminal offense, shall be remitted or reduced, except upon an application made in open court, and upon proof that two days' notice in writing of such application, and copies of the papers upon which the same is founded, have been served upon the district attorney of the county in which the conviction was had, and by an order of the court, entered by the clerk thereof in its minutes.

§ 1491. No fees or compensation shall be charged or received by any magistrate, clerk, officer, or policeman for the arrest of any prisoner, or for mileage, or for receiving any prisoner into the prison, or for discharging him from the same; and no fees or costs shall be charged or received for the issuing of any warrant, subpoena, or other process, or for the taking of a complaint, bail, or affidavit, except as otherwise specially provided. Any magistrate or officer violating the provisions of this section shall be guilty of a misdemeanor, and shall be subject to the pains and penalties for such an offense.

1846, ch. 302,
art. 3, §2,
Comp. 1482.
Restriction.

§ 1492. No alderman shall sit or act as a magistrate in any judicial matter or proceeding.

1873, ch. 335, §6.
Comp. 63.

§ 1493. All commitments of offenders other than to the penitentiary, or State prison, shall be to "the keeper of the city prison of the city of New York." The keeper of the penitentiary and the keeper of the city prison shall keep all persons committed to them respectively in the same manner and under the same penalties as the sheriffs of the other counties in the State ought by law to keep, in the jails of their respective counties the criminals committed to them.

1814, ch. 176, §2
Comp. 1435.
Keepers of the
penitentiary
and jail to re-
ceive prisoners,
etc.

§ 1494. Every warrant of arrest issued by a judge of the superior court or court of common pleas may be directed generally to any sheriff, constable, marshal, or policeman in the State, and may be executed by any of these officers to whom it may be delivered.

1881, ch. 442,
§155.

§ 1495. The commitment for examination on a warrant of arrest, and the commitment pending the procuring of bail shall be to the keeper of the city prison of the city of New York. Bench warrants shall require the delivery of the defendant to the said keeper of the city prison. The order for discharge upon bail must be directed to the said keeper.

1881, ch. 442,
§§193, 212, 214,
477, 576.

§ 1496. When a person under the age of sixteen years is sentenced to the house of refuge, it must be to the house of refuge established by the society for the reformation of juvenile delinquents in the city of New York.

1881, ch. 676,
§701.

§ 1497. A search warrant must be executed and returned to the magistrate by whom it was issued, within five days after its date. After the expiration of such time the warrant, unless executed, is void.

Within what
time warrant
must be
executed and
returned.

§ 1498. The warrant for the committal of the father of a bastard must direct his committal to the city prison. The warrant for the committal of the mother of a bastard, or a woman pregnant of a child likely to be born such, who refuses to disclose the name of the father must direct her committal to the city prison.

1881, ch. 442,
§§352, 356, 367.

Id. §892.

§ 1499. Warrants for the committal of vagrants, who are improper persons to be committed to the alms-house, must be for their committal to the city prison or penitentiary.

Id. §901.

§ 1500. An apprentice or servant, committed according to law, must be committed to the city prison.

Id. §905.

§ 1501. Undertakings given by persons charged with being disorderly persons may be prosecuted in the name of the mayor, aldermen, and commonalty, and the amount collected shall be paid into the city treasury for the benefit of the poor.

Id. §§882, 883.

§ 1502. Undertakings to obey an order in relation to the support of a bastard, or of a child likely to be born a bastard, or of its mother, may be prosecuted in the name of the mayor, aldermen and commonalty, and costs may be recovered against the city in the same manner as in any other action.

Title 8.—The District Attorney.

1875, ch. 480, §1.
Comp. 1386.
1868, ch. 854, §1.
Comp. 1460.
1875, ch. 259, §5.
Comp. 1387.
1875, ch. 480, §2.
Comp. 1386.
1 R. S. ch. 5, tit.
1, §15.

District
attorney,
salary of.

Number of as-
sistant district
attorneys.
1823, ch. 256, §2.
Comp. 1460.
Fees, how dis-
posed of.

§ 1503. The district attorney shall receive for his services as such district attorney, a yearly salary of twelve thousand dollars, which shall be paid in equal monthly payments. There shall be four assistant district attorneys for said county, who shall each receive a yearly salary of seven thousand five hundred dollars. The office is so far local as to require the residence of the district attorney within the city.

§ 1504. All fees which are by any law of this State allowed to or receivable by the clerk of the court of oyer and terminer and of the court of general sessions, shall continue to be collected and received by the said officer for the use of the mayor, aldermen, and commonalty, and said officer shall use his best endeavors to collect, or cause to be collected, all the fees incident to his office, and shall, at least once in every three months, render a just and true account, under oath, to the comptroller of the said city, of all such fees so collected and received by him up to the time of the exhibition of the said account, and shall forthwith pay over the amount of the moneys so received to the chamberlain of the said city.

Id. §4.
Comp. 1460.
Duty of district
attorneys in
reference to
fees of clerk.

§ 1505. It shall be the duty of the district attorney to aid and assist the clerk of the court of oyer and terminer and of the general sessions of the peace, in the collection of such fees of his office as cannot be collected without legal assistance, and all fees of the said clerk collected by the district attorney, shall be accounted for by him, under oath, at least once in every three months, to the comptroller, in his regular quarterly accounts, and he shall also, immediately after such accounting, pay over the amount thereof to the chamberlain of the said city.

Title 9.—The Court of Oyer and Terminer.

§ 1506. It shall and may be lawful for the board of aldermen to assign such place in the said city as may to them seem most conducive to the public convenience for the holding of the court of oyer and terminer and jail delivery, to be held in and for the said city and county; but any alteration of the place of holding such court shall, before the same takes effect, be notified in one or more of the public newspapers printed in the said city, for the period of not less than four weeks.

1838, ch. 297, §1.
Comp. 1383.
See Co. Civ.
Proc., §42.
Comp. 2034.
Courts, where
to be held.

§ 1507. The court of oyer and terminer has jurisdiction to try any indictment found in the court of general sessions which has been sent by order of said court of general sessions, to and received by the court of oyer and terminer, if in the opinion of that court it is proper to be tried therein. The court of oyer and terminer has jurisdiction by an order entered in its minutes to send to the court of general sessions any indictment found in the court of oyer and terminer for a crime triable at the court of general sessions.

1881, ch. 442, §22.

§ 1508. Courts of oyer and terminer in and for the city and county of New York may be held by a justice of the supreme court; and when so held all the powers and jurisdiction appertaining by law to said court shall be possessed and exercised by the officer holding the same.

1857, ch. 446, §48.
Comp. 1384.
47 N. Y. 330.

§ 1509. All fines imposed by the court of oyer and terminer, except as in this act otherwise provided, may be at any time remitted by the judge imposing the same, and in addition to such remission the court may, in its discretion, substitute imprisonment. All such fines shall be collected by and paid to the clerk of said court, and by him accounted for to the chamberlain, with a statement under oath.

1855, ch. 337, §7.
Comp. 1380.

§ 1510. The clerk of the court of oyer and terminer and general sessions of the peace in and for the city and county of New York, may appoint some proper person as deputy, to hold his office during the pleasure of the clerk; who, whenever the said clerk shall be absent from the city, or by reason of sickness or any other cause, shall be incapable of performing the duties of his office, may perform all the duties required by law to be done by such clerk; which deputy shall, before he enters on the duties of his office, take the oath of office prescribed in the constitution of this State, and as often as such deputy shall die, resign, or be removed from office, or become incapable of executing the duties of the office, another may be appointed in his place. Every such appointment shall be in writing, under the hand of the clerk, and shall be filed in his office.

1890, ch. 42, §3.
Comp. 1393.
Clerk of the
court to ap-
point a deputy.
See 1847, ch. 307;
1874, ch. 90.

4 R. S. ch. 2,
title 4, §62,
Comp. 1390.

§ 1511. The clerk of the court of oyer terminer shall, without requiring any fees, on the application of any person indicted in said court, issue subpoenas as well during the sitting of the court as in vacation, for such witnesses as defendant shall require, residing in or out of the county, which shall be made returnable at any day of the sitting of the court at which the attendance of the witness shall be required.

Co. Civ. Proc.
§253, Comp. 2035.
Stenographer.

§ 1512. The judge presiding at a term of the court of oyer and terminer must designate a stenographer of the supreme court to act as stenographer for that term during its sitting, who is not entitled to any compensation, in addition to his salary, except that if a copy of any proceedings, written out at length from the stenographic notes, is required for the use of the presiding judge or the district attorney, the stenographer's fees therefor are payable, on his certificate, as a county charge.

1869, ch. 599, §1.
Comp. 1394.
Salary of clerk
and deputy.
1 R. S. ch. 5,
title 1, §15.
Comp. 1436.

§ 1513. The clerk and deputy clerk of the court of oyer and terminer shall each be paid the sum of two thousand dollars per annum for services as such clerk and deputy. The office of clerk of the court of oyer and terminer and general sessions is so far local as to require the residence of every person holding such office within the city.

Title 10.—The Court of General Sessions and its Judges and Officers.

1881, ch. 412,
§§11, 51, 56,
Its jurisdiction.

§ 1514. The court of general sessions of the city and county of New York is a court of sessions and has original jurisdiction of criminal actions. It has jurisdiction:

1. To try, determine and punish, according to law, all crimes, including crimes punishable with death or imprisonment in the state prison for life;

2. To exercise, in cases arising in the city and county of New York, the same powers as are conferred by statute upon courts of sessions in other counties;

3. To try and determine any indictment found in the court of oyer and terminer of the city and county of New York, which has been sent by order of the court of oyer and terminer to and received by the court of general sessions; and,

4. To exercise such powers as are now defined by special statute relating thereto.

Id. §52.
Division of
court.

§ 1515. The court of general sessions of the city and county of New York is divided into three parts.

Id. §53.
Parts, by
whom held.

§ 1516. Any one of the three parts of the court of general sessions of the city and county of New York may be held by the recorder of the city of New York, or the city judge, or the judge of the court of general sessions. A judge of the court of common pleas for the city and county of New York may also hold it.

§ 1517. Each part of the court of general sessions in and for the city and county of New York, may be held each month, commencing on the first Monday and continuing so long as, in the opinion of the judge sitting, and of the district attorney, the public interest requires, but one part only is required to be held during the months of July and August, and two parts only during the rest of the year. The court of general sessions is empowered to extend any of its terms, and to make successive extensions of any such term, and to make any adjournments of the said court, within its discretion, by any order or orders to said effect duly entered in its minutes.

Id. §54.
When held and its duration.

1862, ch. 10, §1.
Comp. 1390.
1872, ch. 7, §3.
Comp. 1391.
To extend the time of its terms and make adjournments.

§ 1518. It shall be the duty of the commissioner of public works to supply fit and proper accommodations for the holding of said court, such as may be approved by the court; and the said court of general sessions shall have the same powers to direct suitable provision to be made for its accommodation as those possessed by the supreme court.

1875, ch. 259, §6.
Comp. 1387.
Accommodations for holding court.
1881, ch. 442, §53.

§ 1519. There shall be elected at the general annual election in and for the city and county of New York, held in the month of November, in the year eighteen hundred and ninety-four, and in every fourteenth year thereafter, in the same manner that other county officers of said city and county are elected, a recorder for said city and county, who shall hold his office for the term of fourteen years from the first day of January next after said election; on which day he shall enter upon the discharge of the duties of his office. All laws relating to general elections shall be deemed to apply to the elections authorized by this section, so far as the same are applicable thereto. In case a vacancy shall occur in the office of recorder, by death, resignation or otherwise, before or after said date, the board of aldermen are authorized to fill such vacancy. At the general election next ensuing the happening of such vacancy, an election shall be had for the full term.

1847, ch. 488, §1.
Comp. 1384.
Recorder, when and how elected.
See 1875, chs. 480, 259.
1875, ch. 259, §2.
Comp. 1387.
1847, ch. 488, §3.
Comp. 1385.
Successor.

Provision in case of vacancy.

§ 1520. The recorder is a magistrate. His salary shall be twelve thousand dollars a year, which shall be paid in equal monthly payments, and he shall not be allowed any other compensation for holding any other court or for acting in dispossession or other judicial proceedings appertaining to his office.

1881, ch. 442, §147.
1867, ch. 446, §48, Comp. 1384.
1875, ch. 480, §1, Comp. 1386.
1872, ch. 367, §3, Comp. 1388.

§ 1521. There shall be elected in the city and county of New York, at the general election held in the month of November, in the year eighteen hundred and ninety-two, and in every fourteenth year thereafter, a judicial officer, to be designated as the city judge, who shall enter upon the duties of his office on the first day of January next after his election, and hold his office for the term of fourteen years. All laws relating to general elections shall be deemed to apply to the elections authorized by this sec-

1880, ch. 205, §1, Comp. 1385.
City judge to be elected.

1875, ch. 259, §2, Comp. 1387.
Mode of election.

Successor.

tion, so far as the same are applicable thereto. Such elections shall take place at the general election next preceding the expiration of the term of office of the person holding the same for the time being. If a vacancy occur in the office of city judge by death, resignation, or otherwise, before or after said date, it shall be filled at the general election held next after the happening thereof, and the person chosen shall enter upon the duties of his office on the first day of January next succeeding his election, and hold his office for the full term of fourteen years thereafter; but no election shall be held to fill any vacancy, which shall happen between any election at which a city judge shall have been chosen and the first day of January next thereafter.

1850, ch. 205, §6,
Comp. 1386.
1857, ch. 446,
§48, Comp. 1384.
His powers.
86 N. Y. 670.
1882, ch. 442,
§147.

In case of a vacancy the powers conferred upon the city judge may be exercised by any of the judges of the court of common pleas. The city judge is a magistrate. All judicial powers vested in the recorder of the city of New York are conferred upon such city judge, and he shall, concurrently with said recorder, perform and discharge all judicial duties imposed upon such recorder. He shall have jurisdiction of proceedings for the removal of persons from real property where the property or any portion thereof is situated in said city. He shall receive for his services as such city judge a yearly salary of twelve thousand dollars, which shall be paid in equal monthly installments. No other compensation shall be allowed to him for holding any other court or for acting in dispossession or other judicial proceedings appertaining to his office.

1850, ch. 205, §8,
Comp. 1386.
Co. Civ. Proc.
§2234.
1875, ch. 480, §1,
Comp. 1386.
1872, ch. 367, §3,
Comp. 1388.

Office for.
1850, ch. 205, §4,
Comp. 1386.

§ 1522. The city judge shall have an office to be provided and properly furnished by the city of New York, and shall attend thereat at all reasonable hours for the transaction of business, except when engaged in holding court.

1875, ch. 259, §1,
Comp. 1387.
Additional
judge of court
of general
sessions.

§ 1523. There shall be elected at the general election in November, eighteen hundred and eighty-nine, on the expiration of the present term of office, and in every fourteenth year thereafter, a judge of the court of general sessions of the peace, and who shall be designated "the judge of the court of general sessions," and who shall have the same power, authority, duties, and privileges in all respects as the city judge of said city. He is a magistrate. He shall have jurisdiction of proceedings for the removal of persons from real property, where the property or any portion thereof is situated in the city. The judge of the court of general sessions shall hold office for the term of fourteen years, to begin upon the first day of January next following his election. He shall receive for his services as such judge of the court of general sessions a yearly salary of twelve thousand dollars, which shall be paid in equal monthly installments. No other compensation shall be allowed to him for holding any

1881, ch. 442,
§147, Co. Civ.
Proc. §2234.
Id. §2.
1875, ch. 480, §1,
Comp. 1386.
1872, ch. 367, §3,
Comp. 1388.
1857, ch. 446,
§48, Comp. 1388.

other court or for acting in dispossession or other judicial proceedings appertaining to his office.

§ 1524. He shall have an office to be provided and properly furnished by the board of aldermen, and shall attend thereat at all reasonable hours for the transaction of business, except when engaged in holding court.

1850, ch. 206, §4.
Comp. 1886.

§ 1525. Any judge of the court of common pleas is authorized and empowered to hold any terms or sessions of the court of general sessions in and for the city and county of New York, in the place of the recorder or city judge, during the temporary disability or absence of said recorder or city judge.

1870, ch. 554, §1.
Comp. 1893.

§ 1526. An application for an order for the examination or commission of a material witness for a defendant when the indictment is pending in the court of general sessions may be made in the cases provided by law to the recorder, or city judge, or judge of general sessions, or one of the judges of the court of common pleas.

1881, ch. 442.
§641.

§ 1527. An order for the examination of a witness conditionally made on the application of a defendant held to answer a charge of a crime, as required by law, may be made when the indictment is pending in the court of general sessions by the recorder, city judge, judge of general sessions, or one of the judges of the court of common pleas.

Id. §624.

§ 1528. The recorder or city judge, or judge of the general sessions, upon an affidavit of the prosecutor or district attorney, or of the defendant or his counsel, stating that he believes that the evidence of the witness is material, and his attendance necessary, shall indorse on the subpoena an order for the attendance of a witness residing or served with the subpoena out of the county.

Id. §118.
Witnesses residing or served with subpoena, out of county, when and how compelled to attend.

§ 1529. The recorder, city judge, and judge of the court of general sessions, must appoint a clerk, and not more than four deputy clerks, two interpreters, and two stenographers. The clerk and deputy clerks so appointed must also act as clerks and deputy clerks of the court of oyer and terminer.

Id. §55.
Officers and clerks.

§ 1530. The deputy clerk of the court of general sessions shall hold his office during the pleasure of the clerk; whenever the said clerk shall be absent from the city, or by reason of sickness or any other cause, shall be incapable of performing the duties of his office, the deputy may perform all the duties required by law to be done by such clerk. He shall, before he enters on the duties of his office, take the oath of office prescribed in the constitution of this State, and as often as such deputy shall die, resign, or be removed from office, or become incapable of executing the duties of the office, another may be appointed in his place. Every such appointment shall be in writing under the hand of the clerk, and shall be filed in his office.

1890, ch. 42, §3.
Comp. 1893.
Clerk of the court to appoint a deputy.

1874, ch. 90, §1.
Comp. 1304.
1869, ch. 500, §1.
Comp. 1304.

§ 1531. The clerk of the court of general sessions shall receive a salary of five thousand dollars per annum for his services as such, and the deputy clerk shall receive a salary of three thousand dollars per annum, and the assistant clerk, appointed by the clerk, shall receive a salary of three thousand dollars per annum, and the comptroller of the city is authorized and directed to pay such clerk, deputy clerk, and assistant clerk such salaries in monthly installments out of the county treasury. One of the deputy clerks, appointed by said court, shall receive an annual salary of twenty-five hundred dollars; the stenographer shall receive an annual salary of two thousand dollars, and one of the deputy clerks appointed by said court shall each receive an annual salary of twelve hundred dollars. The interpreters shall receive annual salaries of twenty-five hundred and twelve hundred dollars respectively.

1876, ch. 199, §1.
Comp. 1396.
See 1874, ch. 566;
1876, ch. 409,
Comp. 1396.
Salaries.

1872, ch. 438, §3.
Comp. 1392.

§ 1532. Neither the clerk, the assistants, nor deputy clerks, nor any other attendant of said court, shall receive any fees or compensation for their own use whatever, for any services by them performed by virtue of their offices, other than their salaries.

4 R. S. ch. 2, tit.
4, §62.
Comp. 1390.
Clerk to issue
subpoenas.

§ 1533. The clerk of the court of general sessions shall, without requiring any fees, on the application of any person indicted in such court, issue subpoenas, as well during the sitting of the court as in vacation, for such witnesses as defendant shall require residing in or out of the county, which shall be made returnable at any day of the sitting of the court at which the attention of the witness shall be required.

1872, ch. 438, §2.
Comp. 1392.
1890, ch. 521, §2.
Court officers,
how appointed.
Salaries, how
fixed and paid.

§ 1534. The judges of the court of general sessions shall appoint such officers to attend said court as to the judges of said court shall appear to be necessary; the salaries shall be paid out of the city treasury, in monthly installments; but the salary of each officer or attendant shall in no case exceed twelve hundred dollars per annum, and the salary of each officer or attendant appointed after May twenty-ninth, eighteen hundred and eighty, shall be one thousand dollars. Such officers may be removed by the court, but their successors shall be appointed by the judges of the court; provided, however, that no other officers or clerks shall be appointed by said judges than is by law provided for.

How removed.

1855, ch. 337, §2.
Comp. 1389.
Application of
laws.

§ 1535. All the provisions of law whatsoever in force on April twelfth, eighteen hundred and fifty-five, relating to courts of oyer and terminer, and regarding trials of indictments for capital offenses and for offenses punishable by imprisonment in the State prison for life, and regarding sentences thereupon, and writs of error, bills of exceptions, certioraris, and writs of habeas corpus arising upon trials of such indictments, are hereby applied to the said court of general sessions except as modified by acts passed after said date.

§ 1536. Every conviction for a capital offense, or for one punishable as a minimum punishment by imprisonment in State prison for life, shall be brought before the supreme court and court of appeals from the said court of general sessions by a writ of error, with a stay of proceedings as a matter of right; and the said appellate court may order a new trial, if it shall be satisfied that the verdict against the prisoner was against the weight of evidence or against law, or that justice requires a new trial, whether any exception shall have been taken or not in the court below.

Id. §3,
as amended
1858, ch. 890, §1,
14 Hun, 486,
75 N. Y. 159.

§ 1537. The court of general sessions shall have power at all times to make rules and regulations for its government and conduct, and to enforce the same by imprisonment for contempt, or by fine, or by both. It is a court of record.

Id. §6.
Contempts.
Co. Civ. Proc. §2.

§ 1538. All fines imposed by the court of general sessions may be remitted by the judge imposing the same, and in addition to such remission the court may, in its discretion, substitute imprisonment. All such fines shall be collected by and paid to the clerk of said court, and by him accounted for to the chamberlain with a statement under oath.

Id. § 7.
Fines.

§ 1539. The time for drawing a grand jury to serve at any term of the court of general sessions, shall be at the time of drawing the names of jurors for the trial of issues of fact in said court; and all the provisions of law in relation to grand juries, the return and summoning of the jurors, their powers, duties, and liabilities for neglect, are declared to be applicable to the grand jurors so to be drawn, except as otherwise specially directed.

1890, ch. 42, §2.
Comp. 1393.
Time for
drawing grand
jury.
See Co. Civ.
Proc. §§1079,
1125.

§ 1540. In all complaints of assault and battery, tried before the court of general sessions in the city of New York, the said court shall have power, in its discretion, to order the complainant to pay the costs incurred by reason of such complaint, and to commit such complainant to custody until such costs be paid; provided they shall be satisfied that such complaint was malicious, or without any reasonable or probable cause, and provided such imprisonment shall not exceed two days.

1893, ch. 11, §10.
Comp. 1480.
Cost of trials
for assault and
battery.

Title 11.—The Police Courts and Justices and their Powers.

§ 1541. The police justices shall be eleven in number, and they shall respectively be appointed on nomination by the mayor and confirmation by the board of Aldermen. Any name once nominated and rejected shall not be again submitted for either of said justices, and the names nominated shall be acted on in the order of their nomination; but confirmations may be made of any names nominated, though once rejected, and the mayor shall continue to nominate until every place is filled.

1861, ch. 442,
§§14, 147.
1873, ch. 588, §6.
Comp. 1898.
1873, ch. 613, §5,
Comp. 1406.
Number of
police justices
and how to be
appointed.

1873, ch. 533, §7.
Comp. 1338.
Certificate of
appointment.

§ 1542. Upon the completion of any appointment of a police justice, certificates of the same shall be made out in duplicate by the clerk of the board of aldermen, dated on the day of any such confirmation, and the same shall be signed by the mayor and president of the board of aldermen, of which one copy shall be delivered to the police justice so appointed, and the other shall be filed by said clerk in the office of the clerk of the county of New York, within twenty-four hours of the time of the said appointment. And from and after any such appointment so certified, the person so appointed shall be deemed and taken to be a police justice of the city of New York, duly appointed, and shall take the proper oath. Such justices are magistrates.

Id. §9.
Salaries.

§ 1543. The salaries of the police justices appointed hereunder shall be eight thousand dollars a year, which shall not be diminished during the term of office, and shall be provided for and paid by the city of New York in equal quarterly installments.

Id. § 10.
Vacancies.

§ 1544. The terms of office of two of said justices in office at the passage of this act will expire on the fourth day of November, eighteen hundred and eighty-two, the term of one other then in office will expire on the thirty-first day of December, eighteen hundred and eighty-three, the terms of two others then in office will expire on the fourth day of November, eighteen hundred and eighty-three, the term of one other then in office will expire on the twenty-fifth day of November, eighteen hundred and eighty-nine, the term of one other then in office will expire on the eighth day of September, eighteen hundred and ninety, the terms of two others then in office will expire on the eleventh day of December, eighteen hundred and ninety, the terms of two others then in office will expire on the twenty-second day of November, eighteen hundred and ninety-one. Upon the expiration of any term or the happening of any vacancy (by death, removal, resignation, or other cause), in respect of any police justice (or his office), such vacant place or term shall be filled and supplied by the appointment of a new police justice for the residue of any such unexpired term, in case of a vacancy, or for a new term which shall be a term of ten years, in case of appointment after the expiration of a term of ten years, as the case may be, under the provisions herein contained.

Id. §11.
Not to receive
fees, etc.

§ 1545. No police justice appointed hereunder shall receive, enjoy, or share any fees, perquisites, or compensation of any kind, directly, or indirectly, other than his said salary; nor shall he hold any other office, or carry on or be engaged or interested in any pursuit connected with the administration of justice, but shall devote his whole time and capacity, so far as the public welfare demands, to the duties of his said office.

§ 1546. Such appointed police justices shall constitute the board of police justices, and discharge the functions thereof, and may elect a president from their own number, and remove him and elect a successor at their pleasure; and all the meetings of such board shall be public, and all its proceedings shall be recorded in its books of minutes by its secretary and shall be preserved. Such board may designate a police clerk to act as secretary of said board, and from time to time substitute any other, and fix a reasonable compensation to be paid for the services of such secretary. Such board shall establish public rules relative to its meetings, which, as far as possible, shall be held at regular times, for the order and transaction of its business thereat, for the keeping and preservation of the minutes of its doings, for the appointment of clerks and its other appointments, and for the public inspection of such minutes, under the care of the secretary, at reasonable times. Such board shall have the authority and duty of appointing all police clerks, but there shall be only six such clerks, and of regulating the time, place, and manner of the discharge of the duty of such clerks. Such clerks shall respectively be appointed for the term of four years, and shall receive a certificate from such board stating such term and when it will expire; and a duplicate of such certificate shall be filed by the secretary of such board in the office of the clerk of the county of New York; and before any such clerk shall enter upon the discharge of his duty, he shall file in the office of the comptroller of the city, a bond in the penal sum of five thousand dollars, with two sureties, and conditioned for the faithful discharge of his duty as a police clerk, and the due accounting for and payment of all money by him received as such clerk, and the form and execution of such bond shall be approved by a certificate of a judge of said superior court indorsed upon the same. Upon the question of any appointment of a clerk or clerk's assistant, the members of said board shall vote as their names are called by the secretary, and the vote of each member shall be recorded in such minutes, and a majority of the whole board voting together shall be required to appoint a police clerk; but the majority of the members attending any regular meeting of the board may appoint police clerks' assistants, interpreters, stenographers, and other necessary attendants, and may remove the same, and the secretary shall record the vote of each member of said board; provided, however, that such clerks' assistants, stenographers, and interpreters shall be appointed for a term of two years or to fill a residue of such unexpired term, and that such assistants shall have notice of the cause of their proposed removal, and an opportunity for an explanation in the presence of such board before they shall be removed, and the

1873, ch. 538, § 12.
Board of
Justices.

Meetings, etc.

Police clerks.
appointment
of.

1874, ch. 225,
Comp. 1406.
1880, ch. 521, § 2
Bonds of

Interpreters.
etc.

Salaries.
1880, ch. 521, §2.

cause of any removal shall be briefly entered on such minutes. The salary of such police clerks shall be four thousand dollars per year, which shall not be diminished during such term, payable quarterly, but the salary of the said clerks appointed after May twenty-ninth, eighteen hundred and eighty, shall be three thousand dollars per year, and none of them shall hold any other office or be interested in any other business connected with the administration of justice, but they shall give their whole time to the duties of their clerkship, and shall reside in the city of New York; and the police clerks' assistants and other assistants at any police court shall obey the reasonable directions of such police clerks; subject, however, to the proper orders of the police justices presiding and the board of police justices. The salary of the interpreters shall be twelve hundred dollars.

1866, ch. 745, §3.
Comp. 1425.

1873, ch. 538, §13.
Comp. 1400.
Rules, etc.

§ 1547. The rules for regulating the business of the police courts to be held by said justices and the business of said board of police justices heretofore by said board prepared, published, and a copy thereof filed, duly certified by the secretary of said board, with the clerk of the city and county of New York, shall, with any amendments which such board may make, publish, and file as aforesaid, so far as consistent with the constitution and laws of this State, be binding on said police justices and shall regulate the business of such police courts and boards. And among other provisions of said rules, for securing a vigorous, orderly, and just administration in said courts, they shall contain regulations:

Justices to hold
courts.

1. As to the justices who shall hold such courts at times and places to be specified, and shall provide for a rotation of justices holding the same.

Hours.

2. As to the hours when the same shall be open and when closed each day, and what officers and assistants shall be in attendance.

Order of
business.

3. As to the order of business and the manner of its discharge, including the taking of bail and entering into recognizances.

Manner of
keeping
records.

4. As to the manner in which the police clerks and their assistants shall keep complete records of the doings of said courts and justices, and perform their other duties in a uniform manner.

Cases of va-
grancy, etc.

5. As to the hearing and disposition of all cases of vagrancy, and of cases where the order of the police justice may deprive any person of his or her liberty, or impose a fine.

Disposition of
moneys.

6. As to the collection and disposition of any moneys by any police clerk, and as to keeping accounts of the same; and

7. Providing for the keeping by such police clerks of books of records containing the names and sex, and, as near as may be, the age of all persons against whom complaints or charges have been made, the nature and date of the complaint or charge, and the name and residence of the complainant, giving street and number; the date and nature of all warrants or other process issued, and against whom; the dates, nature, and result of all examinations; the date of the reception and the name and the disposition of all prisoners; the names of all persons waiving examinations; the names of all persons giving bail and its amount, and the names and residence of all bondsmen; the name, residence, and the age, as near as possible, and the sex of all persons committed, fined, convicted, held for trial, or sent to the sessions for trial, and for what cause, and by what justice, and at what date; the date at which any fine or costs are paid, by whom, and the amount; the name, residence, and age and sex of all persons discharged, by what justice, of what charge, and at what date, together with a suggestion of the cause of such discharge; the filing, care, and prosecution of recognizances; the name and residence of all attorneys appearing in respect of any charge or on any hearing, and the reasons for any unusual delay in any proceeding.

Records of age, sex, etc., of persons against whom charges have been made.

8. And such rules shall contain proper provisions in regard to the publicity of any portion of such records under the authority of the section fifteen hundred and fifty-two of this act. But no charge, complaint, or person brought before one justice shall be sent before another, except for adequate cause, to be fully and at once entered upon the records kept by such police clerks and signed by the justice; no person shall be committed or recommitted for examinations, save for necessary cause, to be then stated clearly upon such records; the hearing upon no charge shall be adjourned to another day without the suggestion of the reason therefor being entered on such records, nor shall any charge be dismissed or any prisoner be discharged without record of the same having been before the justice so dismissing or discharging the same, and the name of such prisoner and the nature of the charge.

Publicity of records. Transfer of cases only for cause.

§ 1548. The said board of police justices shall have power to make needful rules and regulations for the maintenance of order in and about the said police courts and court of special sessions and the offices appropriated to the use of the magistrates, clerks, and officers thereof respectively, and all persons willfully violating any such rule or regulation may be arrested and punished in the same manner as is now provided by law for the punishment of disorderly conduct tending to a breach of the peace in said city.

1880, ch. 508, § 81. Comp. 1418. May make rules and regulations.

Id. § 32.

§ 1549. The concurrence of a majority of all the members of said board of police justices shall be necessary to adopt any resolution of said board.

1873, ch. 538, § 14.
Comp. 1401.
Report to be
made annually.

§ 1550. It shall further be the duty of such board of police justices annually, on or before the first day of December, to cause to be prepared by its said secretary, and to supervise a report, the original of which shall be filed in the office of the clerk of the city and county of New York, and to have as many copies thereof promptly printed and published, in economical pamphlet form as may be possible, at an expense not exceeding one thousand dollars annually; but no more than one thousand copies shall be so printed in any year; and copies thereof shall be sent to the governor and mayor, and to the principal officers, libraries, and institutions in the city and State of New York, and a record of such distribution shall be preserved. Such reports shall set forth, beside the action of said board and its said rules, such general statistics and causes of crime in said city, and such explanations of existing deficiencies in criminal administration, and suggestions of remedies for the same, as said board of justices may think will be useful to the public. Said annual report shall also contain the separate reports which said board shall cause to be annually made to itself, under oath, by each of said police clerks, and which latter report shall set forth at least the following facts: First. The amount and kind of business done at each of the police courts of the city and before each police justice, and during what period each of said justices has officiated at any such court, respectively, during the previous year, and during what hours such court has been open. Second. What services have been performed by each police clerk so reporting, the amount of money he has received as such clerk, from whom, naming each person, at what date and on what account; and the disposition made of the same. Third. And in general form, all the facts and matters which are herein provided to be contained in the records to be kept by such police clerks, so far as they relate to the previous year, but in conformity to the proper regulations to be made by said board of police justices; and especially all the facts required to be recorded under the fifth and seventh subdivisions of section fifteen hundred and forty-seven, but the names of no persons proceeded against in said courts need be given.

What to contain.

1873, ch. 438, § 15.
Comp. 1402.
Clerks to be
responsible for
records, etc.

§ 1551. Such police clerks shall be responsible for the records and papers pertaining to such police courts; shall cause them to be conveniently filed and indorsed; shall keep clear and full minutes of all business done at such courts or before such justices, as such rules may require, so that the disposition of and proceedings in regard to every matter and person brought before

a police justice or court shall appear; and they shall be responsible to the board of police justices.

§ 1552. It shall be the duty of said board to prepare, or cause to be prepared, the proper blanks for making such reports, and to tabulate the facts contained in the separate reports of said police clerks, so that their said annual report shall clearly present the annual administration of justice in said police courts. And so far as a reasonable regard for the public interest may require, said board may prevent undue publicity of proceedings before any justice in respect of any charges, pending attempts to make arrests, and also in cases where there is good reason to think such publicity is sought for the gratification of malice or pernicious curiosity.

Id. §16.
Blanks, etc.

§ 1553. Every police clerk shall, on or before the fifth day of each month, pay over to the comptroller of the city whatever moneys have come into his hands as such clerk during the previous month, and shall accompany such payment by a sworn return in writing, signed by such clerk, in such form as such comptroller shall prescribe, setting forth from whom each portion of said money was received, at what date and for what account it was paid; and the comptroller shall file and preserve such returns; and every warden of a prison, authorized to collect any fine, shall, at the same time and in the same manner as is provided in respect of said clerks, pay over to said comptroller all such moneys, and shall therewith deliver the like sworn returns as is required of such clerk.

Id. §17.
Payments to
comptroller by
clerks.

§ 1554. The court-room and other rooms on the first floor of the court-house building in the third judicial district, shall be set apart for the use and occupation of the second district police court. The board of police justices shall designate and regulate the portions of the court-house and place for the detention of prisoners in the fourth district which shall be set apart for the use of the police justices.

1877, ch. 51, §2.
Comp. 1193.
Courtrooms.

1880, ch. 505, §3;
1882, ch. 271, §1.
Comp. 1194.

§ 1555. It shall be the duty of the board of police to cause some intelligent and experienced person connected with the police force to attend at such police courts in cases where there is need of such assistance, who shall, to such extent as the rules of such board of police justices may reasonably require, aid in bringing the facts before such police justice in proceedings pending in such police courts.

1873, ch. 538, §18,
Comp. 1403.
Board of police
to have experi-
enced person
attend courts.

§ 1556. No person shall practice or be entitled to be heard, save in his or her own defence, before such police courts or justices, except members of the bar of the State of New York entitled to practice before the supreme court; and it shall be the duty of such board of police justices to investigate and report in writing upon cases of abuse of practice or violation of such rules,

Id. §19.
Who may prac-
tice before
police courts.

by any attorney in respect of any proceeding before any such police justice or pending in a police court. The attorney affected shall be allowed a fair opportunity for explanation, and shall answer all proper questions before such board. Such report of the board thereon, duly certified by the secretary, shall be filed in the office of the clerk of the county of New York, and a copy thereof shall be sent to the presiding justice of the supreme court in the first judicial department.

1873, ch. 438, § 20,
Comp. 1403.
Removal of
justices from
office.

§ 1557. Any such police justice or police clerk may be removed by the court of common pleas for the city and county of New York, for either or any of the following causes:

1. For any cause for which a justice of the supreme court or a justice of the peace may now in any manner be removed.

2. For corruption and malfeasance in office.

3. For habitual neglect, carelessness, or inefficiency in the discharge of the duties of a police justice or clerk, or for willful disobedience to any of the provisions of this title.

Id. § 21.
Charges
against a
police justice.

§ 1558. Whenever any judge (save of common pleas) or justice having any jurisdiction in the city of New York, the mayor of said city, the district attorney of the county of New York, or any five taxpayers and residents of said city shall present to the chief judge of the said court of common pleas written allegations which, if true, would authorize the removal of any such police clerk or police justice therein named, said court shall promptly adopt and make public a set of rules, which it may from time to time amend, for the bringing and the regulation of proceedings before such court for the removal of any clerk or officer which, by law, it may be authorized to remove. Such rules, among other things, shall provide for charges to be made by any said officer or persons authorized to prefer such allegations, with the reasonable certainty for due notice thereof to the clerk or officer accused for due opportunity of hearing, on the part of such officer, and for the proceedings and final action, by removal or otherwise, on such charges by said court of common pleas.

Id. § 22.
Comp. 1404.
Hearing before
court of com-
mon pleas.

§ 1559. Upon any such charges being thereafter filed with the clerk of said court of common pleas for the city and county of New York, against any police justice or police clerk, such court shall promptly proceed with the hearing and to the decision of the same by removal or dismissal, according to such rules or as they may be amended. And on any such hearing the chief judge, or the other judge who may be selected by the judges to preside, shall have all the power of a judge holding a jury trial for the purpose of preserving order and of compelling the attendance and swearing of witnesses, enforcing answers to questions and punishment for contempt. Such charges shall be heard and

decided in a summary manner, giving the clerk, officer, or justice charged due opportunity of being heard summarily; and in case of removal the causes thereof shall be assigned in the order of removal. The hearing shall be had in public in the rooms of said court of common pleas, may be adjourned from time to time as justice may demand, and the clerk of said court shall make a record of its proceedings and preserve them in such books as would be used if they were taken at a general term of such court. It shall be the duty of all the judges of such court of common pleas to attend such hearing, but a majority of all the judges of such court in office at such time shall be a quorum and an order of removal signed by a majority of such judges shall be valid and the act of said court. The vote on each charge shall be openly taken and shall be recorded, and the order of removal shall be forthwith signed by the members of the court approving the same, and filed with the clerk of the county of New York, and a duplicate shall be recorded in the minutes of such hearing; and from the date of such filing the officer, justice, or clerk therein purporting to be removed, shall cease to be such justice, officer or clerk, and his office and position shall be deemed vacant.

§ 1560. Any wilful false swearing in any case where an oath is authorized or made under this act shall be deemed perjury. 1873, ch. 538,
§ 23, Comp. 1404.

§ 1561. It shall be the duty of the city of New York and its several officers to supply and pay for whatever may be necessary for the transaction of the business of the police courts and board of police justices in said city, to supply all proper books, stationery and furniture, and to pay all the salaries, compensations, expenses, and disbursements herein authorized; and for that purpose the board of estimate and apportionment shall annually cause the proper amounts to be levied, raised, and appropriated for the purposes aforesaid, but the proper authorities of said city may require all such expenditures, and the number of persons employed about such courts and the salaries (save those herein affixed) to be no more than the public interest, in their opinion, require. Id. § 4,
Comp. 1397.
16 Hun, 240.

§ 1562. In all cases of arrest for intoxication or disorderly conduct, in the city of New York the police justices shall have power, in addition to holding the party to bail for good behavior, to impose a fine not exceeding ten dollars in each case, or to commit to the city prison not exceeding ten days, each day of imprisonment to be taken as a liquidation of one dollar of the fine. 1859, ch. 491, § 5,
Comp. 1421.
Intoxication or
disorderly
conduct.

§ 1563. The police justices shall in every case of commitment for vagrancy, file or cause to be filed in the office of the clerk a 1865, ch. 268, § 1,
Comp. 1410.

Record in vagrancy cases to be filed.

record of the proceedings had before them, or either of them, and such record shall contain, as part thereof, the proofs or confession taken by such justice, together with the prisoner's examination. Which record shall be substantially in the following form:

The undersigned, one of the police justices of the city of New York, hereby certifies that A B was this day brought before me on a charge of being a vagrant (or on his own confession, of being a vagrant, as the case may be), and that upon diligent inquiry and examination made of the charge so preferred against the said A B, and upon the proofs, and the examination of the said A B hereto annexed, it appearing that the said A B is a vagrant within the provisions of the statutes in such case made and provided; therefore, I, the said justice, did so adjudge, and thereupon I, the said justice, by warrant under my hand and seal, committed him, the said A B, so adjudged to be a vagrant as aforesaid, to the penitentiary, workhouse, or almshouse, as the case may be.

In witness whereof, I, the said justice, have hereunto set my hand and affixed my seal, this day of
A. D. 18

C. D, police justice. [L. S.]

Form of record, 1865, ch. 268, §2, Comp. 1410. Vagrants, how discharged.

§ 1564. No person committed to the penitentiary, workhouse, or almshouse as a vagrant, as above directed, shall, unless upon a writ of habeas corpus or certiorari, except by order of two of the commissioners of charities and correction, be discharged before the expiration of the term for which he was so committed.

Id. §3.

§ 1565. Any police justice violating any of the provisions of the two preceding sections shall be deemed guilty of a misdemeanor.

1844, ch. 315, §3, Comp. 1419. Complaints for assaults and batteries.

§ 1566. In cases of complaints for assaults and batteries the magistrate may require that the complainant pay the fees authorized by law. In case the examination shows that the complaint is just and legal, the magistrate shall return such fees to the complainant. Should said complaint be frivolous or malicious and untrue, the magistrate may charge to the complainant and receive from him, all the costs and fees now authorized in such proceedings, which costs and fees shall be paid to the clerks, who shall monthly pay all such fees into the city treasury, accompanying such payment with an affidavit or affirmation that the sums so paid are all the fees received by them for any matter or cause specified in this section.

1860, ch. 508, §12, Comp. 1415.

§ 1567. Any recognizance to keep the peace, or to be of good behavior, or both, taken by any police justice in said city, may be for any sum that any court in said city is authorized to fix in any such recognizance.

§ 1568. The police justices and persons acting by their orders shall have power to examine the books of any pawnbroker, his clerk or clerks, if they deem it necessary, when in search of stolen property, and any person having in his possession a pawnbroker's ticket, shall, when accompanied by a policeman, or by an order from the superintendent of police or captain of police, be allowed to examine the property purporting to be pawned by said ticket; but no property shall be removed from the possession of any pawnbroker without the process of law required by the existing laws of this State, or the laws and ordinances of the city regulating pawnbrokers. A refusal or neglect to comply in any respect with the provisions of this section, on the part of any pawnbroker, his clerk or clerks, shall be deemed a misdemeanor, and punishable as such.

1846, ch. 302, §8,
as amended
1849, ch. 436, §6,
Comp. 269.
Books of pawn-
brokers to be
examined.

Title 12.—The Court of Special Sessions.

§ 1569. The court of special sessions in the city and county of New York has jurisdiction:

1861, ch. 442, §4.
Jurisdiction.

1. To try and determine according to law all complaints for misdemeanors, unless the defendant elects to be tried at the court of general sessions, or the court of special sessions sends the case to the court of general sessions for trial;

2. To remit fines imposed by it, and in place of the fine remitted, substitute, in its discretion, imprisonment;

3. By an order entered in its minutes, to declare forfeited the recognizance of a defendant, taken by the court, to appear thereat, upon his failure so to appear;

4. To impose the same punishment as is authorized by statute to be inflicted in like cases tried in the court of general sessions of the peace of that city and county;

5. By warrant attested in the name of any one of the justices authorized to hold the court, signed by the clerk thereof, and entered in the minutes of the court, to enforce its judgments and orders; to bring before the court all accused persons for trial and judgment in all cases in which it has jurisdiction; to issue subpoenas for the attendance of witnesses, attachment for contempt, and other process necessary for the proper conduct of the court;

6. To require the principal in a recognizance to appear at the court, and enter into a further recognizance to keep the peace, or to be of good behavior, or both, toward the people of the State, for a period not exceeding one year, and in default thereof to commit him to prison till he be discharged therefrom according to law.

§ 1570. The police justices, by the vote of a majority, have the exclusive power to appoint the clerk, deputy clerk, stenog-

Id. §63.
Officers, how
appointed.

rapher, interpreter, and other officers of the court of special sessions.

Id. §66.
Term of office.

§ 1571. The term of office of the clerk and deputy clerk of the court of special sessions is the same as the term of office of the police justices of that city.

Id. §67.
Court, when held.
How constituted.
1858, ch. 282, §8.
Comp. 1424.

§ 1572. The court of special sessions may be held as often and at such times as the justices thereof may think expedient. It may be held by any three of the police justices, who shall sit alternately, except that one of their number may be selected to preside; and the said justices shall meet in convention and assign the justices to hold the several terms of said court.

1858, ch. 282, §6.
Comp. 1423.
Salary, etc.

§ 1573. The salary of the clerk shall be six thousand dollars, and that of the deputy clerk shall be five thousand, and shall not be increased or diminished during their continuance in office. Such salaries shall be paid out of the treasury of the city and county of New York in equal monthly payments. Before entering upon the duties of their respective offices, the said clerk and deputy clerk shall severally take and subscribe, before the clerk of the county, the oath of office prescribed by the constitution, which oath shall be filed in the office of the county clerk. They shall also severally execute a bond to the people of the State in the penal sum of one thousand dollars, with sufficient sureties, to be approved by the city comptroller, conditioned for the faithful performance of their duties according to law, which bond shall be filed in the office of the said city comptroller.

1858, ch. 282, §2.
Comp. 1423.
Duty of such clerks.

§ 1574. It shall be the duty of said clerk or his deputy to administer the oath or affirmation required by law to be administered in the said court; to issue all subpoenas for witnesses on the part of the people, and to furnish, when required, the necessary blanks for witnesses on the part of the defense.

Id. §3.
Clerk to certify sentences to sheriff.

§ 1575. Whenever sentence shall be pronounced upon any person convicted of any offence in the said court of special sessions, the clerk thereof shall, as soon as may be, make out and deliver to the sheriff of the said city and county, or his deputy, a transcript of the entry of such conviction in the minutes of the said court, and of the sentence thereupon, duly certified by the said clerk, which shall be sufficient authority to such sheriff or deputy to execute such sentence, and he shall execute the same accordingly.

1881, ch. 442, §742.
In what cases to proceed to trial.

§ 1576. When the court of special sessions in the city and county of New York has jurisdiction, it must proceed to the trial, in the following cases:

1. When the defendant has requested to be tried in such court;
2. When (having omitted for twenty-four hours to give bail, as required by the magistrate before whom he was brought, for

his appearance at the next court of general sessions of the city and county of New York) a jury is not demanded by him, on being brought before the court of special sessions for trial.

§ 1577. If, in the case mentioned in the second subdivision of the last section, a jury be demanded, the court of special sessions must proceed to the examination of the charge, and hold the defendant to answer or discharge him, in same manner as the magistrate before whom he was originally brought might have done.

Id. §743.
If jury demanded, magistrate to proceed to examination of charge.

§ 1578. The trial must, in all cases, be before the court without a jury.

Id. §744.
Trial to be before court, without a jury.

§ 1579. Subpoenas for witnesses, and the certificate of the judgment, must be signed by the clerk of the court, who must also enter all the proceedings of the court, and the sentences upon convictions, in a book of minutes, and when necessary, certify the proceedings of the court.

Id. §745.
Clerk to issue subpoenas, sign certificates of judgment, and enter proceedings of court and sentences upon convictions.

§ 1580. Fines, imposed by the court, must be received by the clerk, if paid before committal in execution of the judgment. He must every thirty days, render to the comptroller of the city, accounts of the fines imposed and received by him, and of the expenses attending the court.

Id. §746.
Fines before committal, to be paid to clerk. His accounts, when and to whom rendered.

§ 1581. All fines, not paid to the clerk, as provided in the last section, must be received by the sheriff of the city and county of New York; who must, within thirty days thereafter, pay them to the comptroller of the city, in the same manner as he is required to pay fines imposed by the court of general sessions of the city and county of New York, and received by him.

Id. §747.
All other fines to be paid to sheriff. His account thereof, when and to whom rendered.

§ 1582. No transcript of a conviction had in the court of special sessions need be certified or filed; but a copy of the minutes of the conviction, certified by the clerk, is conclusive evidence of the facts contained therein.

Id. §748.
No transcript of conviction to be filed. Certified copy of minutes, conclusive evidence.

§ 1583. In all cases of misdemeanors in the city and county of New York where the accused, upon being arrested and brought before the committing magistrate, shall elect to have his case heard and determined by the court of special sessions, the affidavit of complaint shall be forthwith filed with the clerk of said court, to the end that said court may proceed to hear and determine the same according to law. If the accused be admitted to bail after electing to be tried by the court of special sessions, a recognizance shall be taken for the appearance of said accused at said court of special sessions, which shall also be filed with the clerk of said court; and if the accused shall fail to appear, pursuant to the condition of said recognizance, the said court shall, by an order entered in their minutes, direct the same to be forfeited, and the clerk thereof shall return said

1859, ch. 491, §1, Comp. 1420.
Misdemeanors may be tried by court of special sessions.

recognizance, with a certified copy of the minutes of the court forfeiting the same, to the district attorney of the city and county of New York, to the end that said accused and sureties may be prosecuted thereon according to law.

Id. §2.
Comp. 1421.
Powers of
court.

§ 1584. Subpoenas for the attendance of witnesses, attachments for contempt, and other process necessary for the proper conduct of said court, shall be tested in the name of any one of the justices authorized to hold the court, and signed by the clerk. Subpoenas issued for the attendance of witnesses in said court shall be served by some proper person or persons, under the direction of the clerk thereof.

Id. §3.
Witnesses may
be paid in cer-
tain cases.

§ 1585. When any person shall have been committed as a witness in behalf of the people of this State in any cause pending in the court of special sessions, and it shall appear that such person is poor, the said court, in its discretion, may, by an order in its minutes, direct the county treasurer to pay such witness such sum of money, not exceeding ten dollars, as shall seem reasonable to the court. The clerk of said court shall immediately make out and deliver a certified copy of such order to the person in whose favor the same is made, without exacting any fee for such service. Upon the production of such certified copy to the chamberlain, he shall pay to the person authorized to receive the same the sum of money so directed to be paid, which shall be allowed to said treasurer in his accounts.

1860, ch. 508,
§35, Comp. 1418.
Clerk to be
provided with
seal.

§ 1586. The seal heretofore provided for the court of special sessions in said county, on which is engraved the arms of the State, and the words "court of special sessions, county of New York," shall continue to be the seal of said court, and all process issued by said court shall be sealed with the said seal and signed by the clerk of said court.

Id. §15,
Comp. 1415.
Recognizances.

§ 1587. Every recognizance for appearance at the said court of special sessions shall be returnable as heretofore; and every recognizance for appearance at said court, or that shall be taken before said court, shall be subject to forfeiture and shall be prosecuted in the manner provided in this act for the forfeiture and prosecution of recognizances by the court of special sessions and district attorney.

Id. §13,
Comp. 1415.
Laws relative
to recog-
nizances to
apply.

§ 1588. All provisions of law in relation to the taking and discharging of recognizances to keep the peace in said city, by one of the police justices, shall apply as far as practicable, to the taking or discharging by the said court of special sessions of any recognizance authorized to be taken under the provisions of law.

1833, ch. 313, §3,
Comp. 1419.

§ 1589. All persons convicted in said city for the violation of any law cognizable by a police justice may, in addition to the fine or penalty, be required to pay the costs and charges accruing thereon.

§ 1590. Any recognizance to keep the peace or to be of good behavior, or both, by the court of special sessions may be for any sum that any court in said city was, on April seventeenth, eighteen hundred and sixty, authorized to fix in any such recognizance.

1860, ch. 508, §12,
Comp. 1415.

§ 1591. Whenever any magistrate in said city shall bind over, or commit any person for his appearance at the court of special sessions, to answer any criminal charge of other misconduct, he may also bind over the witnesses for the prosecution to appear and be examined in the said court, in the same manner that any magistrate may bind over, by recognizance, witnesses to appear and be examined in the court of general sessions of the peace aforesaid; and the said court of special sessions shall have power to bind over, in similar manner, each and every witness for the prosecution, in any matter to be heard and determined by said court. All provisions of law in relation to proceedings after orders for the recognizance of witnesses to appear at said court of general sessions shall, as far as is practicable, apply to any order to enter in recognizance made in pursuance of this section for the enforcement thereof; and all the provisions of sections fourteen hundred and seventy-two to fourteen hundred and seventy-nine, inclusive, in relation to the violation, forfeiture, prosecution, settlement, or discharge of any other recognizance shall apply, as far as practicable, to any recognizance taken under the provisions of this section.

1860, ch. 508, §17,
Comp. 1416.
Witnesses
bound over by
recognizances.

This act, how
and when to
apply.

§ 1592. The clerk of the court of special sessions shall, within three days after the first day of each month, transmit to the secretary of state a transcript of the entry of every conviction had during the preceding month in the special sessions of the said city and county, which transcripts shall contain the name of the offender, a description of the offense in such form as the said secretary shall prescribe, and the sentence upon each conviction.

1867, ch. 604, §6,
Comp. 1475.
Clerk of court
of special ses-
sions of the
peace to trans-
mit entry of
conviction.

§ 1593. An application for the allowance of an appeal from a judgment of the court of special sessions, can be made only to the recorder, or city judge, or judge of general sessions. The affidavit and allowance of the appeal must be delivered to the clerk of the court of special sessions, within five days after the allowance of the appeal, and when so delivered the appeal is deemed taken.

1881, ch. 442,
§§751, 755.
Appeal from
special
sessions.

Title 13.—Commitment of Children to Incorporated Institutions.

1894, ch. 126, §4,
as amended
1895, ch. 172, §2,
Power and duty
of the mana-
gers.

§ 1594. The managers of the Society for the Reformation of Juvenile Delinquents in the city of New York shall have power, in their discretion, to receive and take into the house of refuge established by them, all such children, who shall be taken up or committed as vagrants, or convicted of criminal offenses, in the said city, as may, in the judgment of the court of general sessions of the peace, or of the court of oyer and terminer, in and for the said city, or of the jury before whom any such offender shall be tried, or of the police magistrates, or of the commissioners of charities and correction, be proper objects; and the said managers shall have power to place the said children committed to their care, during the minority of such children, at such employments, and to cause them to be instructed in such branches of useful knowledge, as shall be suitable to their years and capacities; and they shall have power, in their discretion, to bind out the said children, with their consent, as apprentices or servants, during their minority, to such persons, and at such places, to learn such proper trades and employments, as in their judgment will be most for the reformation and amendment, and the future benefit and advantage of such children.

1895, ch. 172,
§§3, 4,
Comp. 1723.
Duty of courts
to ascertain age
of delinquents.

When mana-
gers to ascer-
tain age of
delinquents.

§ 1595. It shall be the duty of all courts and magistrates by whom any juvenile delinquent shall be committed or sent to the house of refuge, to ascertain the age of such delinquent by such proofs as may be in their power, and to insert such age in the order of commitment, and the age thus ascertained shall be deemed and taken to be the true age of such delinquent. In cases where the age of the delinquent so committed is not so ascertained and inserted in the order of commitment, the said managers shall, as soon as may be after such delinquent shall be received by them, ascertain the age of such delinquent by such proof as may be in their power, and cause the same to be entered in a book to be designated by them for that purpose, and the age thus ascertained shall be deemed and taken to be the true age of such delinquent.

Id. §5.
Who to be
deemed disor-
derly children.

§ 1596. All children under the age of sixteen deserting their homes without good and sufficient cause, or keeping company with dissolute or vicious persons against the lawful commands of their fathers, mothers, guardians, or other persons standing in the place of a parent, shall be deemed disorderly children.

Id. §§6, 7.
In what case
magistrate to
issue warrant.

§ 1597. Upon complaint made on oath to any police magistrate against any child within said county, under the age of sixteen, by his or her parent or guardian, or other person standing to him or her in place of a parent, as being disorderly, such

magistrate or justice shall issue his warrant for the apprehension of the offender, and cause him or her to be brought before himself or any other police magistrate for examination. If such magistrate be satisfied by competent testimony that such person is a disorderly child within the description aforesaid, he shall make up and sign a record of conviction thereof, and shall by warrant under his hand commit such person to the house of refuge, and the powers and duties of the said managers in relation to the said children shall be the same in all things as are prescribed as to other juvenile delinquents received by them; provided, however, that any person committed under this section shall have the same right of appeal secured by law to persons convicted of criminal offense; but on any such appeal mere informality in the issuing of any warrant shall not be held to be sufficient cause for granting a discharge.

Make record of conviction and commit to house of refuge.

§ 1598. Whenever it shall appear to the managers of the Society for the Reformation of Juvenile Delinquents in the city of New York, that any of the delinquents confined in the house of refuge or under their care, shall have been guilty of attempting willfully to set fire to any building belonging to the institution or any combustible matter for the purpose of setting fire to any such building, or that any delinquent shall have been guilty of violence to any officer or inmate of the institution, or of openly resisting the lawful authority of the officers of the institution, or of attempting, by threats or otherwise, to incite others to do so, or shall by gross or habitual misconduct exert a dangerous and pernicious influence over the other delinquents, it shall be lawful for the said managers to submit a written statement of the facts in any such case to a justice of the supreme court in the first judicial district, or the superior court or to a judge of the court of common pleas, and thereupon to apply to him for an order authorizing the temporary confinement of such delinquent for correction in the penitentiary or county jail of the county of New York, or in the penitentiary or county jail of the county from which the delinquent was committed.

1873, ch. 339, §1, Comp. 1725.
When managers may apply for order committing delinquents to penitentiary or county jail.

§ 1599. It shall be the duty of the justice or judge so applied to forthwith summarily to inquire into and take proof of the facts of the case, and if it shall appear to him that the statement is substantially true, and that the case is one in which the ends designed to be accomplished by the institution or its general welfare will be best promoted by his doing so, he shall thereupon make an order authorizing the confinement of the delinquent in the said penitentiary or county jail in the city of New York, or in the penitentiary or county jail of the county from which the delinquent was committed, for a limited period to be expressed in the order, and not exceeding the period of six

Id. §2.
Judge or justice to take proofs, and make order.

Superintendent
or keeper to re-
ceive delin-
quents so com-
mitted.

months. And the superintendent or keeper of the said penitentiary or county jail determined upon by said judge and named in said order, is hereby authorized and required to receive such delinquent and detain him during the period expressed in such order, unless the managers shall previously to the expiration of such period direct him to be returned to the said house of refuge.

Id. §3.
When to be
returned to
house of
refuge.

§ 1600. At the expiration of the period limited by the said order, or sooner, if the said managers shall direct it, the superintendent or keeper of the said penitentiary or county jail shall return such delinquent to the custody and care of the superintendent of the said house of refuge to be further dealt with according to the laws, rules, and regulations ordained for its government.

Id. §4.
Persons not to
be discharged.

§ 1601. No person convicted of vagrancy or of any criminal offense, and committed to or confined in the house of refuge established by the said society in the city of New York, shall be discharged by habeas corpus or certiorari from such confinement, on the ground that no certificate of such conviction has been filed, or on the ground of any variance, misdescription, misnomer, or any defects or imperfections in matter of form contained in the record, process, entries, judgment, order of commitment, returns, or other proceedings under or in pursuance of which such commitment was made; provided that such certificate be filed, or such variance, misdescription, misnomer or defect or imperfection in matter of form be corrected by order of the court before which such writ of habeas corpus or certiorari is returnable.

1857, ch. 249,
§§1, 2,
as amended
1878, ch. 165, §1.
Comp. 1733.

§ 1602. Whenever any girl under the age of fourteen or boy under the age of ten years, shall be brought by any policeman, before the mayor or recorder, or any other magistrate of the said city, upon the allegation that such child was found in any street, highway or public place in said city, in the circumstances of destitution and suffering, or abandonment, exposure or neglect, or of beggary, specified and defined in section fourteen hundred and sixty-three of this act, and it shall be proved to the satisfaction of such magistrate, by competent testimony, that such child is embraced within the said section, and it shall further appear to the satisfaction of such magistrate, by competent testimony, or by the examination of the child, that by reason of the neglect, habitual drunkenness, or other vicious habits of the parents or lawful guardian of such child, it is a proper object for the care and instruction of the American Female Guardian Society, such magistrate, instead of committing such child to the alms-house of said city, or to such other place, if any, as may have been provided by the common council thereof, in his

discretion, by warrant in writing, under his hand, may commit such child to the said society, to be and remain under the guardianship of its managers, until therefrom discharged in manner prescribed by law. Such commitment shall be by warrant, in substance as follows:

To J—— D——, one of the policemen of the city of New York: You are hereby commanded to take charge of C—— E——, a child under the age of fourteen, who has been proved to me, by competent evidence, to be embraced within section fourteen hundred and sixty-three of the act entitled, etc., etc., giving the title of this act, and who also appears to my satisfaction to be a proper object for the care and instruction of the managers of the American Female Guardian Society, and shall deliver the said child without delay to the same society, in Thirtieth street, between Madison and Fourth avenue; and for so doing this shall be your sufficient warrant.

Form of commitment.

Dated this day , eighteen hundred

But no variance from the preceding form shall be deemed material, provided it sufficiently appear upon the face of the warrant that the child is committed by the magistrate in the exercise of the powers given him by this section. Any order so made by any such magistrate shall be executed by any policeman to whom it shall be delivered by the magistrate, by conveying the child therein named to the Home for the Friendless, and such child shall be detained in said home until discharged or removed therefrom in the manner hereinafter provided.

Order, how executed.

§ 1603. Immediately upon the making of any such order, the magistrate making the same shall deliver to a policeman of the city a notice, in writing, addressed to the father of such child, if its father be living and resident within the city, and if not, then to its mother, if she be living and so resident; and if there be no father or mother of such child resident within the city, then addressed to the lawful guardian of such child, if any, or to the person with whom, according to the examination of the child, and the testimony, if any, received by such magistrate, such child shall reside; in which notice the party to whom the same is addressed shall be informed of the commitment of such child to the said Society, and shall be notified that unless taken therefrom in the manner prescribed by law, within ten days after the service of such notice, the child therein named shall be deemed legally surrendered to said Society, for the purposes, and within the true intent and meaning of the sixth section of its act of incorporation, passed April sixth, eighteen hundred and forty-nine. Such notice shall be served by the policeman to whom it shall be delivered, by delivering the same to the party to whom it shall have been addressed, personally, or by leaving it with

1857, ch. 249, § 23, 4, as amended 1878, ch. 185, § 1, Comp. 1738. Duty of magistrate.

Notices, how served.

some person of sufficient age, at the place of residence or business of such party, and it shall be the duty of such policeman immediately to report the fact and the time and manner of such service, to the magistrate.

Id. §§5, 6.
Further duty of
magistrate.

§ 1604. If the party to whom such notice shall have been addressed, or any other person, shall, within the time therein specified, prove to the satisfaction of the magistrate issuing the same, that the circumstances of want and suffering, or other circumstances described in section fourteen hundred and sixty-three of this act, under which such child shall have been found, have not been occasioned by the habitual neglect or misconduct of the parents or lawful guardian of such child, then it shall be the duty of such magistrate, by order in writing, addressed to the managers of the said Society, to direct such managers to deliver such child to the custody of the party named in such order, who shall thereupon be entitled to take such child away from the said Society. If such proof shall not be produced within the time above prescribed, it shall be the duty of the magistrate by whom the child shall have been committed to the said Society, to make and transmit to the managers thereof a notice in writing, to that effect.

Want of proof.

Id. §7.
Final order.

§ 1605. If any child who has been [previously arrested, and delivered to the parent or guardian, as hereinbefore provided, shall again be found in either of the conditions described in said section fourteen hundred and sixty-three, the magistrate before whom such child is brought, upon proof thereof, may forthwith make a final order for committing such child to the care and instruction of said Society, without giving the notice provided for in the last section but one.

Id. §8.
Commitments
for insufficient
cause.

§ 1606. If at any time after a child shall have been committed to the said society, it shall be made to appear to the satisfaction of the board of managers of the said Society, that such child was on insufficient cause, false or deficient testimony, or otherwise, wrongfully or improvidently so committed, the said board of managers shall, on the application of the parents, guardian or protector, and also, if, after a child shall have been properly committed to the said Society, by virtue and in pursuance of the foregoing provisions, any circumstances should occur, that, in the judgment of the board of managers of said home, would render expedient and proper the discharge of such child from the guardianship of said board, having a due regard for the welfare of such child and the purposes of said Society, the said board of managers, on the application of the parents, guardian or protector of such child, may, in their discretion, deliver up the child to its parents, guardian or protector, on such rea-

sonable conditions as the said board of managers may deem right and proper.

§ 1607. The said managers shall have power and it shall be their duty, whenever any child intrusted or committed to their charge, shall, by the commission of any infamous crime, or by confirmed habits of vagrancy, have become so degraded and debased as to be an improper subject for their care and management, to return such child to the committing magistrate, or other proper authorities, to be disposed of in due course of law.

1837, ch. 249, §§ 3, 4, as amended 1878, ch. 165, § 1. Comp. 1784. Powers and duties of managers.

§ 1608. Whenever any child above the age of seven and under the age of fourteen years shall be brought by any policeman before the mayor or recorder or any other magistrate of the said city, upon the allegation that such child was found in any way, street, highway, or public place in said city, in the circumstances of want and suffering, or abandonment, exposure, or neglect, or of beggary, specified or defined in section fourteen hundred and sixty-three of this act, and it shall be proved to the satisfaction of such magistrate, by competent testimony, that such child is embraced within the said section, and it shall further appear to the satisfaction of such magistrate, by competent testimony or by the examination of the child, that by reason of the neglect, habitual drunkenness or other vicious habits of the parents or other lawful guardian of such child, it is a proper object for the care and instruction of the New York Juvenile Asylum such magistrate, instead of committing such child to the alms-house of said city or such other place, if any, as may have been provided by the common council thereof, in his discretion, by warrant in writing under his hand, may commit such child to said corporation, to be and remain under the guardianship of its directors until therefrom discharged in manner prescribed by law. Such commitment shall be by warrant, in substance as follows:

1851, ch. 332, §§ 9, 10, as amended 1854, ch. 387, § 1. Comp. 1789. Warrant for commitment of children to asylum. See 12 Abb. 92.

"To A. B., one of the policemen of the city of New York: You are hereby commanded to take charge of A. B., a child under the age of fourteen and above the age of seven years, who has been proved to me, by competent evidence, to be embraced within section fourteen hundred and sixty-three of the act entitled, etc., giving the title of this act, and who also appears, to my satisfaction, to be a proper object for the care and instruction of the corporation created by an act entitled 'An act to incorporate the New York Juvenile Asylum,' passed June thirtieth, eighteen hundred and fifty-one, and to deliver the said child without delay to the said corporation, at its house of reception in this city, and, for so doing, this shall be your sufficient warrant.

Order how executed.	<p>"Dated this day of eighteen hundred ."</p> <p>Any order so made by any such magistrate, shall be executed by any policeman to whom it shall be delivered by the magistrate, by conveying the child therein named to the house of reception to be established by said corporation ; and such child shall be detained in such house of reception until discharged or removed therefrom in the manner hereinafter provided.</p>
1887, ch. 249, §11, as amended 1886, ch. 245, §2, Comp. 1740. Notice of magistrate to father, etc. 12 Abb. 92.	<p>§ 1609. Immediately upon the making of any such order, the magistrate making the same shall deliver to a policeman of the city especially detailed for that service, a notice in writing, addressed to the father of such child, if its father is still living, and resident within the city, and, if not, then to its mother if she be living and so resident; and if there be no father or mother of such child resident within the city, then addressed to the lawful guardian of such child, if any, or the persons with whom, according to the examination of the child and the testimony, if any, received by such magistrate, such child shall reside, in which notice the party to whom the same is addressed shall be informed of the commitment of such child to the house of reception of said corporation, and shall be notified that unless taken therefrom in the manner prescribed by law, within twenty days after the service of such notice, the child therein named, will be and become the ward of said corporation.</p>
Id. §12, as amended 1886, ch. 245, §3. Service of notice.	<p>§ 1610. Such notice shall be served by the policeman detailed for that service, by delivering the same to the party to whom it shall have been addressed, personally, or by leaving it with some person of sufficient age at the place of residence or business of such party, and it shall be the duty of such policeman immediately to report the fact and the time and manner of such service to the magistrate, and enter in a book to be provided for that purpose, and kept at the house of reception of the New York Juvenile Asylum, the fact of having served such notice, the time and manner of such service, and the fact thus recorded shall in all cases be presumptive evidence of the proper service of such notice. If the party to whom such notice shall have been addressed, or any other person, shall, within the time therein specified, prove to the satisfaction of the magistrate issuing the same, that the circumstances of want or suffering or other circumstances described in the said section fourteen hundred and sixty-three, under which such child shall have been found, have not been occasioned by the habitual neglect or misconduct of the parents or lawful guardians of such child, then it shall be the duty of such magistrate, by order in writing, addressed to the superintendent of the house of reception of said corporation, to direct such superintendent to deliver such child to the custody of the party named in such order, who shall</p>
Report of service to magistrate.	
Record of service.	
In what case child to be surrendered to father, etc.	

thereupon be entitled to take such child from the said house of reception. But if such proof shall not be produced within the time above described, such child shall be removed from the house of reception to the asylum; and whether such removal to the asylum has taken place or not, the order of commitment by such magistrate shall be final, and he shall thereafter have no power to discharge such child from the house of reception or from the asylum, or in any manner from the care and custody of said corporation.

When order of commitment final.

§ 1611. Whenever, after careful and diligent search and inquiry, the policeman whose duty it was to serve the notice described in the last section but one, shall not have found either the father, mother, legal guardian, or person with whom, according to the examination of the child and the testimony, if any, received by such magistrate, said child shall have resided, it shall be the duty of the superintendent of the house of reception to cause the following notice, with the proper blanks inserted, to be posted up in a conspicuous place in the police station-house nearest the alleged residence of the child, viz. :

1856, ch. 57, §2. Comp. 1747. Duty of superintendent.

" Notice.-- This is to certify that _____, a child of _____ about the age of _____ years, _____ hair, _____ eyes, _____ complexion, _____ in height, and said to be of _____ descent, was on the _____ day of _____, 18 _____, committed by _____ to the house of reception of the New York Juvenile Asylum, number twenty-three West Thirteenth street, and that after careful search and inquiry made by _____, neither the parents, legal guardians, or persons with whom said _____ is alleged to have resided, can be found.

Notice.

" New York, _____, 18 _____ : _____ Superintendent."

And the posting of said notice, as above required, shall be deemed as equivalent to having duly served it on the parent or guardian, or person with whom the child was alleged to have resided, in cases where they or either of them could be found.

§ 1612. If any child, under the age of fourteen years, having sufficient bodily health and mental capacity to attend the public schools, shall be found wandering in the streets or lanes, or in any public place in the city of New York, idle, truant, or without any lawful occupation, any police magistrate in said city, on complaint thereof by any citizen, on oath, shall cause such child to be brought before him for examination, and shall also cause the parent or guardian or master of such child, if he or she have any, to be notified to attend such examination. If, on such examination, the complaint shall be satisfactorily established, such magistrate or justice shall require the parent, guardian or master to enter into an engagement in writing to the corporate authorities of said city, that he will restrain such child from so wander-

1851, ch. 332, §13, as amended 1866, ch. 246, §4. Comp. 1741. Proceedings in case of idle, vagabond children under fourteen years.

In what case parent, etc., to give bond.

In what case
magistrate to
give exclusive
control of child
to corporation.

ing about, will keep him or her on his own premises, or in some lawful occupation, and will cause such child to be sent to some school at least four months in each year, until he or she becomes fourteen years old. Such magistrate or justice as aforesaid may in his discretion require security for the faithful performance of such engagement. If such child has no parent, guardian or master, or none can be found, or if such parent, guardian or master refuse or neglect for twenty days to enter into such an engagement, and to give such security, if required, such magistrate or justice shall by warrant under his hand, commit such child exclusively to said corporation. If the engagement provided for in this section shall be habitually or intentionally violated, such magistrate or justice shall, on complaint thereof in the manner already described in this section, cause such child to be again brought before him for examination, with notice to the person by whom the engagement was made, or if such person cannot be found, or no longer has the custody of such child, then with notice to the person having the guardianship or control of such child, if any such person there be, to attend such examination, and if the complaint shall be satisfactorily established, the magistrate or justice, as aforesaid, shall by warrant commit such child exclusively to said corporation. Nothing herein contained shall be construed to relieve the person who has so violated his engagement from the penalty prescribed by section second of chapter one hundred and eighty-five of the laws of eighteen hundred and fifty-three, and the provisions of that section are extended to this section, as far as the same are applicable. It shall be the duty of every policeman who shall find any child in the condition herein described, to arrest and to bring such child before such magistrate or justice, to be dealt with in accordance with the provisions of this section. The board of police are hereby authorized and required to make necessary and suitable regulations for carrying into effect the duty hereby imposed upon said policemen.

Duty of
policeman.

1851, ch. 332, §14,
as amended
1866, ch. 245, §5,
Comp. 1742.
Proceedings
relative to
children who
leave home or
associate with
vicious per-
sons, and who
are complained
of by parents,
etc.

§ 1613. If any child in the city of New York, between the ages of seven and fourteen years, shall desert his home without sufficient cause, or shall keep company with dissolute or vicious persons against the lawful command of his or her father, mother, guardian, or other person standing in the place of a parent, then upon complaint upon oath by such parent, or other person standing in the relation of parent, any police magistrate of said city shall cause such child to be brought before himself, or any other magistrate or justice for examination. If such justice or magistrate be satisfied by competent testimony that such child is one of the class of persons described in this section, he shall, by warrant under his hand, commit such child, in his discretion, to the charge of said cor-

poration. Nothing in this section contained shall prevent proceedings from being taken under other statutory provisions applicable to the class of children described in this section. Persons committed under this and the preceding section shall be subjected to the same general treatment as other children committed to the charge of said corporation, or voluntarily intrusted to it.

§ 1614. If any child who has been previously arrested and delivered to the parent or guardian, as hereinbefore provided, shall again be found in either of the conditions described in said section fourteen hundred and sixty-three of this act, the magistrate before whom such child is brought, upon proof thereof, may forthwith make a final order for committing such child to the care and instruction of said corporation, without giving the notice provided in section sixteen hundred and nine.

Id. §15.
Second arrest
of child.

§ 1615. If at any time after a child shall have been committed to the said New York Juvenile Asylum, it shall be made to appear to the satisfaction of the board of directors of the said asylum that such child was on insufficient cause, false or deficient testimony, or otherwise wrongfully or improvidently so committed, the said board of directors shall, on the application of the parents, guardians, or other protector of such child, discharge the child from the said asylum and restore it to such parents, guardian or protector; and also, if after a child shall have been properly committed to the said New York Juvenile Asylum, any circumstances should occur, that in the judgment of the board of directors of the said asylum would render expedient and proper a discharge of such child from the said asylum, having a due regard to the welfare of the child, and the purposes of the asylum, the said board of directors on the application of the parents, guardian or protector of such child, may, in their discretion, discharge the child from the said asylum and restore it to its parents, guardian or protector; on such reasonable conditions as the said board of directors may deem right and proper.

Id. §16.
Child when to
be discharged.
12 Abb. 92.

§ 1616. The said corporation shall have power to return to the committing magistrate, or other proper authorities, to be disposed of in due course of law, any child whatsoever, who, for any reason in the judgment of the directors of said corporation, shall not be a proper subject for its care. It shall also have power to transfer such child to the custody of the commissioners of public charities and correction, or to any other incorporated public institution for the care of vagrant, homeless, orphan or criminal children, and to make with such institution suitable and needful arrangements for the care, support and education of such child. Said commissioners or such institution shall have

Id. §17.
as amended
1868, ch. 245, §6.
Comp. 1743.

In what case
corporation
may return
child to magis-
trate, or hand
it over to
commissioners
of public
charities and
correction.

Power of said
commissioners.

power on their part to receive such child from the New York Juvenile Asylum, and to enter into the arrangements for the care, support and education thereof heretofore specified in this section, anything in its charter or the laws governing it to the contrary notwithstanding.

1874, ch. 334, §3.
Comp. 1752.
Certain chil-
dren may be
committed to
its care.

§ 1617. The several magistrates in the city of New York, and the commissioners of charities and correction are authorized to commit and transfer to the care and management of the corporation known as the Home for Christian Care such children or persons as may come under their jurisdiction, and who may be eligible by the constitution and by-laws of the said corporation.

1863, ch. 448,
§§8, 9.
Comp. 1757.
1875, ch. 218, §2,
Comp. 1768.
Certain chil-
dren found des-
titute to be
committed to
New York
Catholic Pro-
tectory.

§ 1618. Whenever any child above the age of seven and under the age of fourteen years, shall be brought by any policeman of the city of New York before any magistrate of said city or the court of special sessions, upon the allegation that such child was found in any way, street, highway, or public place in said city, in the circumstances of want and suffering or abandonment, exposure, or neglect, or of beggary, specified or defined in section fourteen hundred and sixty-three of this act, and it shall be proved to the satisfaction of such magistrate or court, by competent testimony, that such child is embraced within the said section, and it shall further appear to the satisfaction of such magistrate or court, by competent testimony, or by the examination of the child, that, by reason of the neglect or vicious habits of the parents, or other lawful guardian of such child, it is a proper object for the care of such corporation, such magistrate, instead of committing such child to the alms-house of said city, or such other place, if any, as may have been provided by the common council thereof, in his discretion, by warrant in writing under his hand, may commit such child to the New York Catholic Protectory, to be and remain under its care until therefrom discharged in manner prescribed by law. Such commitment shall be by warrant, in substance as follows :

1871, ch. 83,
Comp. 1762.
Regulation
concerning.

"To A. B., one of the policemen of the city of New York: You are hereby commanded to take charge of C. D., a child under the age of fourteen and above the age of seven years, who has been proved to me, by competent evidence, to be embraced within section fourteen hundred and sixty-three of the act entitled etc., etc., giving the title of this act, and who also appears to my satisfaction to be a proper object for the care of the corporation known as the New York Catholic Protectory, and to deliver the said child, without delay, to the said corporation, at its house of reception in this city, and for so doing this shall be your sufficient warrant.

Duty of
policeman.

"Dated this day of , eighteen ."
An order so made by any such magistrate or court shall be

executed by any policeman to whom it shall be delivered by the magistrate or court, by conveying the child therein named to the house of reception, established by said corporation, and such child shall be detained in such house of reception until discharged or removed therefrom in the manner hereinafter provided.

§ 1619. Immediately upon the making of any such order the magistrate or court making the same shall deliver to a policeman of the city, especially detailed for that service, a notice, in writing, addressed to the father of such child, if its father be living and resident within the city, and if not, then to its mother, if she be living and so resident, and, if there be no father or mother of such child resident within the city, then addressed to the lawful guardian of such child, if any, or to the person with whom, according to the examination of the child, and the testimony, if any, received by such magistrate or court, such child shall reside, in which notice the party to whom the same is addressed shall be informed of the commitment of such child to the house of reception of said corporation, and shall be notified that, unless taken therefrom in the manner prescribed by law, within twenty days after the service of such notice, the child therein named shall be committed to the asylum of said corporation.

1863, ch. 448, § 10,
Comp. 1738.
Notice to be
served on
parent of
child or its
guardian.

§ 1620. Such notice shall be served by the policeman detailed for that service, by delivering the same to the party to whom it shall have been addressed, personally, or by leaving it with some person of sufficient age at the place of residence or business of such party; and it shall be the duty of such policeman immediately to report the fact, and the time and manner of such service, to the magistrate or court, and enter in a book to be provided for that purpose, and kept at the house of reception of said corporation, the fact of having served such notice, the time and manner of such service, and the record of such fact shall in all cases be evidence of the proper service of such notice. Whenever, after careful and diligent search and inquiry, the policeman whose duty it was to serve the notice above described shall not have found either the father, mother, legal guardian, or person with whom, according to the examination of the child, and the testimony, if any, received by such magistrate or court, such child shall have resided, it shall be the duty of the superintendent of the house of reception to cause the following notice, with blanks properly filled up, to be posted up in a conspicuous place in the police station-house nearest the alleged residence of the child, viz.:

Id. § 11.
Manner of
service.

"NOTICE.—this is to certify that _____, a child of about _____
the age of _____ years, _____ hair, _____ eyes, _____ complexion,
in height, and said to be of _____ descent, was on the

Form of notice.

day of , eighteen , committed by to the house of reception of the New York Catholic Protectory, and that after careful search and inquiry made by , neither the parent, legal guardians, nor persons with whom said is alleged to have resided, can be found.

"New York, , eighteen

Superintendent."

And the posting of said notice, as above required, shall be deemed as equivalent to having duly served it on the parent or guardian, or person with whom the child alleged he or she had resided, in cases where they or either of them could be found.

1868, ch. 448, §12,
Comp. 1759.
When child to
be delivered to
parent or
guardian.

§ 1621. If the party to whom any such notice shall have been addressed, or any other person, shall within the time therein specified, prove to the satisfaction of the committing magistrate, or court, that the circumstances of want and suffering, or other circumstances above described, under which such child shall have been found, have not been occasioned by the habitual neglect or misconduct of the parents or lawful guardian of such child, then it shall be the duty of such magistrate, or court, by order in writing, addressed to the superintendent of the house of reception of said corporation, to direct such superintendent to deliver such child to the custody of the party named in such order, who shall thereupon be entitled to take such child from the said house of reception.

Id. §13
When child to
be removed
from house of
reception to
the asylum.

§ 1622. If such proof shall not be produced within the time above prescribed, it shall be the duty of the magistrate, or court, by whom the child shall have been committed to the house of reception, to make and transmit to the superintendent thereof, a notice in writing to that effect, and thereupon the child named in such notice shall be removed from such house of reception to the asylum of said corporation. Whenever the parent, guardian, or next of kin of any child between the ages of seven and fourteen years, about to be finally committed for any of the causes specified in the preceding sections, shall request the magistrate to commit such child to said corporation, it shall be the duty of such magistrate or court so to commit such child.

Id. §14.
When child to
be discharged
from asylum.

§ 1623. If, at any time after a child shall have been committed to the said corporation, it shall be made to appear to the satisfaction of the said corporation that such child was, on insufficient cause, false or deficient testimony, or otherwise wrongfully or improvidently so committed, the said corporation shall, on the application of the parents, guardians, or other protector of such child, discharge the child from the said asylum, and restore it to such parents, guardian, or protector; and, also, if after a child shall have been properly committed to the said corporation, any circumstances should occur that, in the judgment of

the said corporation would render expedient and proper a discharge of such child from the said asylum, having a due regard to the welfare of the child, the said corporation, on the application of the parents, guardian, or protector of such child, may, at discretion, discharge the child from the said asylum, and restore it to its parents, guardian, or protector, on such reasonable conditions as the said corporation may deem right and proper.

§ 1624. Whenever any child intrusted or committed to the charge of said corporation shall, by the commission of any infamous crime, or by confirmed evil habits, have become so degraded and debased, in the opinion of the said corporation, as to be an improper subject for its care, the said corporation shall have power to return such child to the committing magistrate, court, or other proper authorities, to be disposed of in due course of law.

§ 1625. The trustees for the time being of the Hebrew Benevolent Society, shall have the sole and exclusive custody and control of the persons of such orphans, half-orphans or indigent children of the age not exceeding thirteen years, as they may agree to maintain, provide for, educate and instruct during the minority of such orphans, half-orphans and indigent children, provided, that in respect to any orphan, its legal guardian or nearest relative, or one of the governors of the alms-house, and in respect to any half-orphans or indigent children, the parents or surviving parent, or legal guardian, shall consent, in writing, to such child being maintained, provided for, educated and instructed by said society, or that such half-orphan or indigent child shall be committed to the care and custody of said society by any court, magistrate, or police justice of the city of New York, in any case where such court, magistrate, or police justice shall acquire jurisdiction under any law of this State, and in such case such court, magistrate or police justice shall have the like power and authority, with the consent of said trustees, to commit to the care and custody of said corporation as can now be exercised in regard to any other public institution; and the said corporation can, by agreement and transfer from every other institution having the legal custody of any orphan, half-orphan or indigent children, obtain the care and custody of such child or children, in like manner as by such aforesaid consent or commitment, and the said trustees shall have the power and authority, on the arrival of any such orphan, half-orphan or indigent child at the age of thirteen years and upward, to bind them out to be taught and instructed in some necessary or useful employment, on such terms and restrictions, and to such persons and upon such conditions as the said trustees may deem proper; and the said corporation is hereby vested, in respect to the persons of all such orphans,

Id. §15.
Comp. 1760.
When child to be returned to committing magistrate.

1860, ch. 316, §4,
as amended
1874, ch. 280, §1.
Comp. 1753.
Trustees to have the control of certain orphans and indigent children.
Proviso.

Commitment by courts and magistrates.

Trustees may apprentice.

Terms and conditions, powers, etc.

half-orphans and indigent children, with all the powers and authority conferred upon the New York Juvenile Asylum, by the acts passed June thirtieth, eighteen hundred and fifty-one, passed July eighteenth, eighteen hundred and fifty-three, passed April seventeenth, eighteen hundred and fifty-four, and passed March thirtieth, eighteen hundred and sixty-six, so far as they are applicable to this section.

1868, ch. 775,
Comp. 1763.
Powers of
magistrates to
commit orphan
and friendless
children.

§ 1626. The several magistrates in the city of New York are authorized to commit to the care and charge of the trustees of "The Shepherd's Fold of the Protestant Episcopal Church, in the State of New York," such orphan and friendless children as may come under their jurisdiction, and who are eligible, as by the charter and constitution of said society.

1865, ch. 106, §8,
Comp. 1769.
Action relative
to deserted
children of two
years old and
under.

§ 1627. Whenever any child of the age of two years or under, shall be found on any street, avenue, highway, lane, alley, public place, dock, pier, vacant lot or yard, or in any vacant or uninhabited room, house, tenement, shed or building of any kind in the city of New York, abandoned or deserted, it shall be lawful for any policeman or other person so finding such child, to take or cause the same to be taken to the house of reception that may be provided by the New York Infant Asylum in the city of New York, and place such child in the custody of such corporation, thereupon making and subscribing in a register, to be kept for that purpose in said house of reception by said corporation, an entry in writing describing such child as nearly as may be, and setting forth with particularity the time and place, when and where, with the name and residence of the person by whom such child was so found, abandoned or deserted.

Id. §9.
Notice to be
given by super-
intendent of
house of recep-
tion relative to
deserted child.

§ 1628. The said corporation shall immediately thereupon cause a notice substantially in the following form, with the blanks properly filled, and subscribed by the superintendent of the said house of reception, to be furnished to the police commissioners, who shall cause the same to be posted in each of the police station-houses in said city, viz.:

"Notice.—This is to certify that a child of about the age of , hair , eyes , color , was on the day of , 18 , found in the city of New York, abandoned or deserted, and has been placed in the custody of the New York Infant Asylum, and unless reclaimed according to law, within thirty days, such child will remain in the charge and custody of said corporation.

"Dated 18 . Superintendent."

1865, ch. 106,
§10, Comp. 1769.
Proceedings
when child is
claimed.

§ 1629. If within said period of thirty days after such notice shall have been so posted, any person claiming to be the parent or lawful guardian of such child shall make oath thereof before some magistrate of the city, such magistrate shall thereupon issue a summons to said corporation to appear before him, at a

time and place to be specified, not less than two nor more than four days from the service thereof, to attend the hearing of said claim for such child, and with said summons shall be served a copy of the affidavit so made before said magistrate. Upon the hearing, if the claimant shall establish by competent testimony, to the satisfaction of the magistrate, that such claimant is the parent or lawful guardian of such child, such magistrate shall thereupon make an order for the delivery of such child to such claimant. And the said claimant may thereupon remove the said child from the custody of the said corporation; provided, however, that if it shall satisfactorily appear to such magistrate that such claimant, from habitual drunkenness, or other vicious or depraved habits, or mode of life, or from indigence or lunacy, or other cause, is an unfit or improper person to have the care and custody of such child, he shall thereupon dismiss the said claim, and remand such child to the care and custody of said corporation. And in case upon the hearing the claimant shall fail to establish by competent testimony to the satisfaction of the magistrate that such claimant is the parent or lawful guardian of such child, then such magistrate shall thereupon dismiss the claim and remand the child to the care and custody of said corporation.

In what cases child to be remanded to custody of corporation.

§ 1630. In case no such claim shall be made within said period of thirty days, or being made within that period, shall be dismissed by the magistrate, then such child shall remain and be deemed to be in the lawful care and custody of the said corporation; if a female, until the age of eighteen years, and if a male, until the age of twenty-one years, unless sooner discharged by said corporation, as hereinafter provided.

Id. §11, Comp. 1770. Time in which children are to remain in custody of corporation.

§ 1631. If at any time within three years after any child, so found abandoned or deserted as aforesaid, shall have been intrusted to the custody of said corporation as above provided, it shall appear to the satisfaction of the board of managers, or any justice of the supreme court or county judge, that such child was, for any cause, wrongfully or improvidently so intrusted, the said board shall thereupon, on the application of the parents or guardian of said child, discharge the said child, and restore it to such parents or guardian. And in case at any time after such abandoned or deserted child shall have been intrusted to said corporation, it shall appear to the board of managers, having due regard to the welfare of such child and the purpose of said corporation, expedient or proper to discharge such child, the said board of managers may, in their discretion, thereupon discharge such child and restore it to its parents, guardian, or other protector, on such reasonable terms and conditions as the said board may deem right and proper.

Id. §12. In what cases children to be restored to parents, etc.

1865, ch. 106, § 18.
Comp. 1770.
In what cases
children may
be delivered to
magistrate, etc.

§ 1632. Whenever any child being in the custody of the said corporation, shall, by the commission of any crime, or by confirmed evil habits, have become so degraded or debased as, in the opinion of the board of managers, to be an improper subject for the care and management of said corporation, the said corporation shall have the power to deliver such child into the custody of some magistrate or other competent authority of the city and county of New York, to be disposed of in due course of law.

Title 14.—Jurisdiction Ceded to the United States.

1 R. S. ch. 1,
title 8, § 3,
Comp. 1517.
In the harbor of
New York.

§ 1633. Jurisdiction has been heretofore ceded to the United States over the following described property:

1. Bedloe's island, Ellis or Oyster island, and Governor's island, but such jurisdiction does not prevent the execution on the said islands of any process, civil or criminal, issuing under the authority of this State.

1866, ch. 862,
§§ 1, 2, 3,
Comp. 1136,
1325.

2. So much and such portion or portions of the easterly end or extremity of the lands and lands under water, commonly known as the Battery extension, with the open slip or basin at the easterly end thereof, not exceeding two hundred and fifty feet, and necessary for the purpose of erecting and establishing a barge office and other suitable buildings and structures for the transaction of the public business connected with the United States revenue service, and for the landing of revenue and other government boats and barges for the use, convenience and accommodation of the United States custom house for the port of New York, together with the slip or basin eastwardly adjacent thereto, together with the passage of not less than seventy-five feet in width from the aforesaid lands and premises, over and across the lands adjacent thereto, known as the Battery ground, for purposes of ingress and egress to and from Whitehall street, and the triangular piece of land, lying westwardly of and adjoining the said lands and between such lands and the slip or basin in the battery known as the New Whitehall boat slip; but such jurisdiction does not impede the execution of any process, civil or criminal, except so far as such process may affect the real or personal property of the United States within the ceded territory.

1873, ch. 320,
§§ 1, 2,
Comp. 1137,
1528.
Jurisdiction
ceded to United
States over
such lands.

1866, ch. 154, § 1,
Comp. 1325.
Consent of
State given to
purchase West
Bank.

3. Such portion of the lands under water comprising what is known as West Bank in the lower bay of the port of New York, and Old Orchard Shoals, as may be required and occupied by the United States in the erection thereon of wharves and warehouses for the reception of goods and merchandise arriving in said port in vessels subject to quarantine by the laws of this State, but such cession is subject to the right to serve thereon

any process, either civil or criminal, issued under the authority of the laws of this State.

4. Robin's Reef, New York harbor, containing an area of less than one acre. The said jurisdiction is ceded upon the express condition that the State of New York shall retain a concurrent jurisdiction with the United States, in and over the property aforesaid, so far as that all civil and criminal process which may issue under the laws or authority of the State of New York may be executed thereon in the same way and manner as if such jurisdiction had not been ceded, except so far as such process may affect the real or personal property of the United States; but the jurisdiction ceded, continues in respect to said property so long as the same shall remain the property of the United States, and be used for public purposes, and no longer.

1874, ch. 432,
§§1 to 3.
Comp. 1529.
How far the
State of New
York retains
concurrent
jurisdiction.

5. The land formerly constituting a portion of the City Hall Park and now used as a post-office, together with such land adjoining the same on the north, which may hereafter be conveyed to the United States by virtue of the provisions of chapter thirty-three of the laws of eighteen hundred and seventy-nine. Jurisdiction is ceded, upon the express condition that the State of New York shall retain a concurrent jurisdiction with the United States in and over the said land, so far as that all civil or criminal process, which may issue under the laws or authority of said State, may be executed therein in the same manner as if such consent had not been given, or jurisdiction ceded, except so far as such process may affect the real or personal property of the United States. The jurisdiction ceded continues in respect to said land so long as the same shall remain the property of the United States, and be used for public purposes, and no longer.

1869, ch. 649, §1.
Comp. 1176.
1890, ch. 506,
Comp. 1522.
1861, ch. 118,
Comp. 1523.
State to retain
concurrent
jurisdiction.

6. The property fronting on Wall street, now occupied by the United States as an assay office; and also the property north of the same fronting on Pine street, and also the property adjoining said Pine street property on the east, and now occupied by the United States for revenue purposes. The jurisdiction is ceded, upon the express condition that the State of New York shall retain a concurrent jurisdiction with the United States in and over the said property, so far as that all civil and criminal and other process which may issue under the laws or authority of the State of New York, may be executed thereon in the same way and manner as if such consent had not been given or jurisdiction ceded, except so far as such process may affect the real or personal property of the United States. But the jurisdiction ceded continues in respect to said property, and to each portion thereof, so long as the same shall remain the property of the United States and be used for public purposes, and no longer.

1857, ch. 19,
§§1 to 5,
Comp. 1520.

Condition upon
which consent
is given.

1853, ch. 523,
§§1 to 5,
Comp. 1534.
Consent of
State given to
purchase.
State to retain
concurrent
jurisdiction.

7. That certain tract, piece, or parcel of ground, real estate and premises, lying and being in the first ward, and constituting the entire square formed by Wall, William, and Hanover streets, and Exchange place, and the building and improvements erected thereon, covering the whole of said square, and used for the purpose of a custom house. The said jurisdiction is ceded upon the express condition that the State of New York shall retain a concurrent jurisdiction with the United States in and over the said property, so far as that all civil and criminal process, which may issue under the laws or authority of the State of New York, may be executed thereon in the same way and manner as if such consent had not been given or jurisdiction ceded, except so far as such process may affect the real or personal property of the United States; but the jurisdiction ceded shall continue in respect to said property, so long as the same shall remain the property of the United States and be used for public purposes, and no longer.

CHAPTER XIX.

JURORS.

Title 1.—The Commissioner of Jurors.

1879, ch. 268, §1,
Comp. 1496.
Salary and
allowance of
commissioner.
66 N. Y. 162.

§ 1634. The commissioner of jurors shall be paid in full satisfaction for his services a yearly salary of five thousand dollars.

1870, ch. 539,
§17, Comp. 1496.
Salary of com-
missioner.
See 1879, ch.
268; 5 Daly, 485.

§ 1635. The commissioner of jurors shall be allowed, for contingent expenses, including clerk hire and all other incidental expenses, a sum not to exceed six thousand dollars per annum, which shall be audited and paid as the expenses of other officers of said city and county are audited and paid; and said salary and allowance shall be in lieu of all fees or compensation heretofore a charge upon the county of New York, or the mayor, aldermen, and commonalty of the city of New York.

1847, ch. 495, §2,
Comp. 1496.
Bond of
commissioner.
66 N. Y. 162.

§ 1636. The commissioner of jurors shall execute a bond to the mayor, aldermen, and commonalty of said city, in the penalty of five thousand dollars, with two sureties to be approved by the said mayor, conditioned for the faithful discharge of his duties.

§ 1637. The commissioner of jurors shall be the judge of the qualifications of grand jurors. He shall hear and determine all claims for exemption, and shall keep a record of all exemptions, and of the period of time for which said exemptions are allowed.

1870, ch. 539, §7
Comp. 1496.
Commissioner
of jurors to de-
termine claims
for exemption.

Title 2,—Grand Jurors.

§ 1638. The persons to serve as grand jurors at courts of oyer and terminer and general sessions, to be held in the city of New York, shall be selected from the persons whose names are contained in the lists of petit jurors for the time being for said city, by a board to consist of the mayor of such city, the presiding judge of the supreme court in the first judicial district, the chief justice of the superior court of the city of New York, the first judge of the court of common pleas, the recorder, and the city judge of said city and county.

1853, ch. 498, §1.
Comp. 1498.
Grand jurors to
be selected by
a board for that
purpose.
64 N. Y. 485.

§ 1639. The said board shall meet at the office of the commissioner of jurors in the city hall, in the city of New York, on the first Monday in September in every year, and organize by the election of one of their number as chairman. Four members shall constitute a quorum for the transaction of business, and if a quorum be not present, the board shall adjourn from day to day until a quorum is obtained.

Id. §2.
Meeting of
board.

§ 1640. The commissioner of jurors shall attend the meetings of the said board, and act as clerk thereof. He shall produce, at the meetings of the said board, all the lists of jurors in his possession. If the commissioner of jurors shall be unable to attend, another clerk may be appointed by the board.

Id. §3.
Commissioner
of jurors to at-
tend meetings
of board.

§ 1641. The said board shall, within fifteen days after the first meeting, select from the lists produced by the commissioner of jurors of persons qualified to serve as jurors in said city, a list of the names of not less than six hundred nor more than one thousand persons, to serve as grand jurors of the different courts of oyer and terminer and general sessions, to be held in said city, until the next list shall be prepared, and the names thereon deposited as hereinafter mentioned. The persons so selected shall be intelligent citizens, of good character, and shall be, so far as the said board may be informed, possessed of the qualifications by law required of persons to serve as jurors for the trial of issues of fact, and not exempted from serving as such jurors.

Id. §4.
Selection of
persons to
serve as jurors,
and list to be
made.

§ 1642. The board for the selection of grand jurors shall have power, from time to time, to convene at the office of the commissioners of jurors, to fill any vacancies in the list of grand jurors, or to add such number of names thereto as will make up the full complement of one thousand grand jurors.

1870, ch. 539, §26.
Comp. 1496.
Grand jury list
may be filled
up.

§ 1643. The lists made out in pursuance of the provisions of this title shall contain the christian and surnames at length of

1853, ch. 498, §5.
Comp. 1498.
1870, ch. 539, §28.
Comp. 1496.

Lists, what to contain.

the persons named therein, their respective places of residence, and their several occupations. It shall be signed by the officers composing the board, and certified by the clerk of the board, and shall be filed in the office of the county clerk within fifteen days after the said first meeting.

1853, ch. 498, §6, Comp. 1498.
Names to be placed in a box.

§ 1644. The lists so filed shall be prepared and the names thereon deposited in a box, and the names of the persons to serve as grand jurors drawn therefrom in the manner provided in section sixteen hundred and forty-nine of this act.

Id. §8.
No person to serve unless included in list.

§ 1645. No person shall be summoned to serve as a grand juror at any court of oyer and terminer or general sessions held in the city of New York, except his name shall be included in the list of grand jurors for the time being, selected pursuant to the foregoing sections.

1881, ch. 442, §§225, 226.

§ 1646. A grand jury must be drawn for every term of the court of general sessions. A grand jury may be drawn for the court of oyer and terminer, upon the order of a judge of the supreme court elected in the first judicial district.

1853, ch. 498, §7.
Drawing.

§ 1647. The names of persons drawn as grand jurors, shall, in certain cases, be returned into the box of undrawn ballots, as now provided by law, and whenever the court of oyer and terminer or court of general sessions shall order the sheriff to summon additional persons to complete the grand jury for such court, the persons who shall be summoned by him shall be first drawn from the box containing the undrawn names of grand jurors, in the manner provided for the drawing of an original panel.

1870, ch. 539, §28, Comp. 1496.
Grand jurors, how drawn and summoned.
Fines.
64 N. Y. 465.

§ 1648. Grand jurors shall be summoned in the same manner as petit jurors, and the fines imposed on grand jurors for non-attendance shall not be less than fifty dollars, nor more than two hundred and fifty dollars, and the same shall be collected or remitted in the same manner as is provided in this act in respect to petit jurors. The ballots shall be prepared by the commissioner of jurors, and, after being carefully compared with the lists regularly selected, shall be placed in the grand jury box. Unless the court of oyer and terminer or the court of general sessions shall otherwise direct, the commissioner shall draw fifty grand jurors for each of said courts on the same day that the petit jurors, to be impaneled at the same time, shall be drawn.

Number to be drawn for each court.

1841, ch. 332, §1, Comp. 1497.
1853, ch. 498, §6, Comp. 1498.
Thirty-six names of jurors to be drawn in New York.

§ 1649. At the time of drawing the names of jurors for the trial of issues of fact, in any court of oyer and terminer, and at the time of drawing such jurors for the general sessions in the city of New York, the county clerk, in the presence and with the assistance of the sheriff or under sheriff, and in the presence of one or more judges of a court of record, who shall have attended for the purpose of drawing the petit jury for such court,

shall proceed and draw in and for the city of New York the names of persons, from the box in which the pieces of paper shall have been deposited for that purpose, to serve as grand jurors at such court of oyer and terminer or general sessions, as the case may be. The judge or judges present shall certify to the drawing.

§ 1650. It shall be the duty of the clerk of every court for which a panel of grand jurors shall be summoned by the sheriff of the city and county of New York, to notify the aldermen of every case in which less than a majority of the persons named in the panel shall be returned as personally served, and the aldermen are hereby prohibited from allowing or paying any fees or charges to the sheriff for serving any of the persons named in a panel in relation to which they shall be so notified or for making any return thereto. Any clerk omitting to notify the aldermen as required by this section, shall be liable to a penalty of one hundred dollars for every such omission, to be recovered by any person suing therefor.

1853, ch. 498, §9, as amended 1877, ch. 417, Comp. 1499. Duty of clerk in notifying aldermen in certain cases.

Penalty for omitting to notify aldermen.

§ 1651. A grand jury may be impaneled in the court of oyer and terminer, and another in the court of general sessions, and may meet at and sit during the same time; but whenever either grand jury shall present an indictment against any person for any offense, it shall not be lawful for the other grand jury sitting at the same time to hear or act upon the same matter, or make any presentation in relation thereto, so far as it shall relate to the person so presented by the other grand jury.

1870, ch. 539, §27, as amended 1872, ch. 69, §1, Comp. 1499. A grand jury may be impaneled and may meet and sit in the court of oyer and terminer and another in the court of general sessions at same time.

Title 3.—Trial Jurors.

§ 1652. In order to be qualified to serve, as a trial juror, in a court in the city and county of New York, a person must be:

Co. Civ. Proc. §1079, Comp. 1499. Qualifications of trial jurors.

1. A male citizen of the United States, and a resident of that city and county.
2. Not less than twenty-one, nor more than seventy years of age.
3. The owner, in his own right, of real or personal property of the value of two hundred and fifty dollars; or the husband of a woman who is the owner, in her own right, of real or personal property of that value.
4. In the possession of his natural faculties, and not infirm or decrepit.
5. Free from all legal exceptions; intelligent; of sound mind and good character; and able to read and write the English language understandingly.

§ 1653. A person dwelling or lodging in the city and county of New York, for the greater part of the time, between the first

Id. §1080. Who deemed a resident.

day of October and the thirtieth day of June next thereafter, is a resident of that city and county, for that jury year, within the meaning of the last section; and it is not necessary that he should have been assessed or should have voted there.

Id. §1081,
as amended
1877, ch. 416;
1879, ch. 542;
1880, ch. 67.
Persons ex-
empt from
service.

§ 1654. Either of the following persons, although qualified, is entitled to an exemption from service, as a trial juror, upon his claiming an exemption, as prescribed in this article:

1. A clergyman, or a minister of any religion, officiating as such, and not following any other calling.

2. A practising physician, surgeon, or surgeon dentist having patients requiring his daily professional attention, and not following any other calling, and a licensed pharmacist or pharmacist while actually engaged in his profession as a means of livelihood.

3. An attorney or counsellor-at-law regularly engaged in the practice of the law as a means of livelihood.

4. A professor or teacher in a college, academy, or public school, not following any other calling.

5. The holder of an office under the United States, or the State, or city or county of New York, whose official duties, at the time, prevent his attendance as a juror.

6. A consul of a foreign nation.

7. A captain, engineer, or other officer, actually employed upon a vessel, making regular trips; or a licensed pilot, actually following that calling.

8. A superintendent, conductor, or engineer, employed by a railroad company, other than a street railroad company, or a telegraph operator, employed by a telegraph company; who is actually doing duty in an office, or along the railroad or telegraph line of the company, by which he is employed.

9. A grand juror, or a sheriff's juror, for the year, selected pursuant to law.

10. An officer, non-commissioned officer, musician, or private, actually serving in a brigade, regiment, battalion, company or troop, of the national guard of the State, uniformed and equipped, according to law, and faithfully performing his duty, by making the parades, and attending the drills, inspections, and reviews, required by law; or a general or staff officer, actually, performing duty as such; or a person who has been honorably discharged from the national guard, after five years' service, in either capacity.

11. A person who has been honorably discharged from the military forces of the State, after seven years' faithful service therein. But in order to entitle a person to exemption, under this subdivision, his service must have been performed before the twenty-third day of April, eighteen hundred and sixty-two,

either as a general or staff-officer, or as an officer, non-commissioned officer, musician, or private, in a uniformed battalion, company, or troop, of the militia of the State, and armed, uniformed and equipped according to law; or a portion thereof, during that period and in that capacity, and the remainder, since the twenty-third day of April, eighteen hundred and sixty-two, as a member of the national guard of the State.

12. A person who, after faithfully performing the duties of a fireman, in a fire company or fire department, duly organized according to the laws of the State, for five successive years, has been honorably discharged therefrom.

13. A person who is physically incapable of performing jury duty, by reason of severe sickness, deafness, or other physical disorder.

14. A person holding office under the fire or police department of the city; or otherwise especially exempted by law.

§ 1655. The evidence of the right to exemption, as prescribed in the last section, is as follows:

1. Under subdivision tenth thereof, where the applicant is a member of a company or troop, the certificate of the captain, or other commanding officer thereof, dated within three months of the time of presenting it. Or the commissioner of jurors may, in his discretion, receive the certified list, specified in the next section, as sufficient evidence thereof. Where the applicant is a regimental officer, or a staff-officer, the evidence of the right to exemption is the certificate of the major-general, or other officer, commanding the first division.

2. Under subdivision tenth thereof, where the applicant has been discharged, or under subdivision eleventh or twelfth, the certificate of discharge; and, where it does not show all the facts, the affidavit of the applicant, or of another person acquainted with the facts.

3. Under subdivision thirteenth thereof, the certificate of a reliable physician, or the affidavit of the applicant, or both; or any other evidence satisfactory to the commissioner.

4. Under any other subdivision thereof, an affidavit of the applicant, or an affidavit satisfactory to the commissioner, of another person in his behalf, stating the facts, entitling the applicant to exemption. Each certificate specified in this section must be accompanied with satisfactory proof, by affidavit, of the genuineness of the signature thereto; and each affidavit and certificate must be filed with the commissioner of jurors, and must be kept open by him, at all reasonable times, to public inspection.

§ 1656. The captain, or other commanding officer, of each company or troop in the first division of the national guard,

Co. Civ. Proc.
§1082.
Comp. 1501.
Evidence of
right to exemp-
tion in certain
cases.

Co. Civ. Proc.
§1083.

Military officers required to certify to commissioner persons performing full military duty.

must deliver to the commissioner of jurors, on or before the first day of July in each year and at any other time when he may require it, a list, certified by him, containing the full name and residence of each member and officer of his company or troop, who is uniformed and equipped, and faithfully performs his duty, as prescribed in subdivision tenth of the last section but one. No other name shall be inserted in the list. The list must be filed in the commissioner's office. The major-general or other officer, commanding that division, must, when necessary, issue orders to carry this section into effect. He must also furnish to the commissioner of jurors, when so required, a list, certified by him, containing the name and residence of each officer or other member of that division, not comprised in the lists of the companies and troops. An officer who neglects or refuses to perform the duty specified in this section; or who includes, in a list certified by him, the name of a person who is not described in this section; or who gives a false certificate, in a case specified in the last section, forfeits the sum of fifty dollars for each offense.

Id. §1064, Comp. 1502. Jury year; length of jury service required and allowed.

§ 1657. The jury year, in the city and county of New York, commences on the first day of October. A person who has actually served as a trial juror, in a court of record of the State, within that city and county, twelve days within a jury year, is entitled to be discharged by the court; except that he shall not be discharged until the close of a trial in which he is serving, when the twelve days expire. A person discharged, as prescribed in this section, is thereafter, during the same jury year, exempt from jury service in any county of the State. Where the certificates of one or more clerks of the courts, made as prescribed in section sixteen hundred and sixty-two, show that a person is entitled to a discharge, as prescribed in this section, the commissioner of jurors must, upon request, certify to the fact. A person cannot serve as a trial juror in courts of record at more than two terms in a jury year.

Id. §1085. When court may temporarily excuse juror from attendance.

§ 1658. The judge holding a term may, in his discretion, excuse a trial juror from service at that term, for not more than three days at a time, where the exigencies of his business require his temporary exemption. The judge may also discharge for the term one or more jurors, notified and attending, whose further attendance is not required for the trial of issues at that term. Or he may discharge, until a day certain, one or more jurors, notified and attending, whose attendance will not be required for the trial of issues until that day. Each juror so discharged until a certain day must attend at the opening of the court on that day, and thereafter until he is discharged, without further notice. If he fails so to do, he is liable to the same

punishment, and the same proceedings must be taken, as if he had failed to attend at the time fixed in the notice given to him.

§ 1659. Except as prescribed in the last section, a court or a judge shall not excuse a person liable to serve as a trial juror, and duly drawn and notified, unless it is shown, by the oath of the juror, or, if he is unable to attend, by the oath of another person acquainted with the facts, that he is then necessarily absent from the city, and will not return in time to serve; or that the interests of the public, or of the juror, will be materially injured by his attendance; or that he is physically unable to serve; or that his wife, or a near relative of himself or his wife, has recently died or is dangerously sick. Where a person liable to serve is excused, in a case specified in this section, or where a person, notified to attend a term as a trial juror is entitled to and claims an exemption, he can be excused only by the judge holding the term which he has been notified to attend. Such an excuse does not extend beyond that term.

Id. §1086.
In other cases,
juror to be
excused only
on showing
certain facts.

§ 1660. A person who has been notified to attend as a trial juror, and who applies to be excused, as prescribed in the last section, must bring the notice, if he has received it, into court, and present it in open court to the judge; or, if he cannot personally attend, he must send it by a person capable of making the necessary proof in relation to his claim to be excused. A note of the excuse, and of the reason therefor, attested by the judge, who must append his signature or his initials thereto, must also be made upon the notice to attend; or, if the juror has not brought it into court, upon a separate piece of paper; which must be transmitted to the commissioner of jurors, by the clerk, as part of the return, made as prescribed in section sixteen hundred and sixty-two.

Co. Civ. Proc.
§1087.
Comp. 1503.
Juror applying
to court to be
excused must
produce notice,
etc.

§ 1661. A person serving as a trial juror elsewhere than in a court of record is excused from jury duty in a court of record only during the time of his actual service elsewhere.

Id. §1088.
Service in a
court not of
record; when
an excuse.

§ 1662. The clerk of each court of record in the city and county of New York must, within ten days after the close of each term for which trial jurors have been drawn, or after the discharge of the trial jurors, if they are discharged before the close of the term, return to the commissioner of jurors the certified copy of the minute of the drawing of the jurors, received from the sheriff, and the sheriff's return thereto, or a copy of each paper, certified by the clerk; together with each notice or other paper, attested by a judge, as prescribed in the last section but one. The clerk must also deliver to the commissioner therewith his certificate, specifying distinctly and in detail, as follows:

Id. §1089.
Clerk of Court
to certify to
commissioner
as to attend-
ance, excuses,
fines, etc., of
jurors.

1. The name and residence of each juror who attended and served; the number of days the juror attended for the purpose of serving; and the number of days he actually served.

2. The name and residence of each juror who was excused or discharged; with the reason therefor.

3. The name and residence of each person notified who did not attend or serve.

4. The name and residence of each person fined, and the date and amount of his fine, unless the fine has been remitted, as prescribed in section sixteen hundred and eighty-two of this act.

The return and certificate must be filed in the commissioner's office, and shall not be altered or corrected, except in pursuance of an order of the court. If a clerk fails to make a complete return and certificate as prescribed in this section, he is guilty of a contempt of the court; and the commissioner of jurors must institute the appropriate proceedings to punish him accordingly.

Id. §1090.
Commissioner
of jurors to
select trial
jurors; his
general powers

§ 1663. Trial jurors must be selected by the commissioner of jurors, who must alone decide upon their qualifications and exemptions, except as otherwise expressly prescribed in this title. But this section does not impair the right to challenge a particular juror at the trial. The commissioner may issue to a person entitled to an exemption a certificate of that fact, which exempts the person to whom it is granted from jury duty during the time limited therein. He must keep a record of all proceedings before him or in his office. He is entitled to and must collect, for the benefit of the city, for a copy of a paper furnished by him, the same fees as a clerk of a court of record.

Co. Civ. Proc.
§1091.
Comp. 1804.
Commissioner
may appoint
assistants, etc.,
who may ad-
minister oaths.

§ 1664. The commissioner of jurors may from time to time appoint, and at pleasure remove, one or more assistants, clerks in his office, and messengers, and may fix their compensation, subject to the limitation fixed by law as to the total expenses of his office. He may designate, in writing, an assistant to attend, in his place, the drawing of jurors for a particular term. The commissioner, or each assistant whom he designates for the purpose by a certificate, filed in the office of the county clerk, may administer an oath or affirmation in relation to any matter embraced within the provisions of this title.

Id. §1092.
All public offi-
cers required
to aid the com-
missioner.

§ 1665. The president and commissioners of the department of taxes and assessments, the police commissioners and all other public officers in the city of New York, must render to the commissioner of jurors all the assistance in their power to enable him to procure the names of persons liable to serve as trial jurors.

§ 1666. The commissioners of the sinking fund must take care that suitable rooms and other accommodations are provided for the use of the commissioner of jurors. If, by the first day of March in any year, suitable rooms have not been provided for his use, for the year commencing on the first day of May next ensuing, he may lease suitable rooms for that year and may pay the rent out of the money received by him for fines and penalties. But a lease so made shall not take effect until a majority of the members of the board, specified in section sixteen hundred and eighty-seven, indorse thereupon a certificate signed by them, to the effect that, in their opinion such a lease is necessary, in consequence of the omission to make other suitable provision, as prescribed in this section; that the rooms leased are required for the proper performance of the duties of the commissioner; that the rent payable therefor, by the terms of the lease is, in their opinion, reasonable; and that the lease is in all other respects fair, just and proper.

Id. §1033.
Expenses of
the commis-
sioner's office,
how paid.

§ 1667. The commissioner must commence the preparation of lists of trial jurors in the month of May in each year. For that purpose the names of the persons liable to serve as trial jurors must be entered in suitable books, alphabetically, with the occupation, place of business and residence of each, as far as those particulars can be conveniently ascertained. After the first day of June he must publish a notice, for at least ten days, in not less than six of the newspapers published in the city, that claims for exemptions will be heard by him. He may insert in or append to the notice copies of such portions of the statutes relating to jurors as he deems expedient. He must hear and determine all claims for exemption, and must keep a record of the persons exempted, and of the period of time for which the exemption of each is allowed.

Id. §1094.
List of jurors to
be prepared,
etc.; commis-
sioner to decide
as to exemp-
tions.

§ 1668. The commissioner may cause to be personally served on any person within the city a notice requiring him to attend at the commissioner's office at a specified time, not less than twenty-four hours after the service of the notice, for the purpose of testifying concerning his own liability, or the liability of any other person, to serve as a juror. A person so notified must attend and testify accordingly. If he fails to attend, as specified in the notice, for any cause except physical inability, or if he refuses to be sworn or to answer any legal and pertinent question put to him by the commissioner, he forfeits fifty dollars for each failure or refusal. One or more successive notices may be served upon the same person, where he fails to attend, as required by a former notice; and he is liable to the same penalty for each failure so to attend. But the commissioner may, in his discretion, dispense with the personal attendance of a per-

Co. Civ. Proc.
§1095.
Comp. 1505.
Persons may
be required to
testify as to
juror's liability
to serve.

Penalty for
disobedience.

son so notified, where another person, cognizant of the facts, is produced and testifies in his stead; and where a person has so attended twice, he cannot be required to attend again in the same jury year.

Id. §1096.
Commissioner
to return lists
to county
clerk; correc-
tion of lists.

§ 1669. On or before the first day of October, in each year, the commissioner must return to the clerk of the city and county of New York, to be filed in his office, certified copies of the lists, prepared by him, of the persons liable to serve as trial jurors in the courts of record for the ensuing jury year. He may, from time to time thereafter, strike from the lists kept by him the name of a person who is found by him to be exempt or disqualified. In that case he must record the reason why the name is stricken off.

Id. §1097.
Old ballots to
be destroyed
and new ballots
deposited; sup-
plemental lists;
new ballots
therefor.

§ 1670. When the certified copies of the lists have been returned, as prescribed in the last section, the ballots for trial jurors used in the previous year must be returned by the county clerk to the commissioner, who must destroy those which are not required for the current jury year. The ballots for the current jury year must be prepared by the commissioner, who may use, for that purpose, so many of the ballots prepared for the previous year as he deems expedient. The ballots, so prepared, must be delivered by the commissioner to the county clerk, and deposited by the county clerk, or his deputy, in a box, as prescribed in article second of title third of chapter ten of the code of civil procedure. The commissioner may, from time to time thereafter, return certified copies of additional lists, containing the names of persons liable to serve as trial jurors, which were omitted from the former lists; and ballots containing those names must be prepared in like manner and used for the residue of the jury year.

Id. §1098.
Comp. 1506.
Number of
jurors to be
drawn for each
term of court
of record.

§ 1671. The number of trial jurors to be drawn for each term, and each separate part of a term, of a court of record in the city, at which issues of fact are triable by jury must be fixed by a general order of the court, or, if it is not so fixed for a term or a separate part of a term, by a written order of the judge appointed to hold the same. The order, or a certified copy thereof, must be filed in the office of the county clerk. If the number has not been fixed, in either mode, at the time of the drawing, one hundred trial jurors must be drawn for each term, or for each part, if the term consists of two or more separate parts.

Co. Civ. Proc.
§1099.
When jurors to
be drawn;
what officers to
attend
drawing.

§ 1672. On a day, designated by the county clerk, not less than fourteen nor more than twenty days before the day appointed for holding in the city a term of a court of record, at which issues of fact are triable by jury, the commissioner of jurors, in person, or by an assistant designated by him

the sheriff of the city and county of New York, in person, or by his under-sheriff; and one or more judges of courts of record, residing in the city, must attend, at the office of the county clerk, to witness and assist in the drawing of trial jurors for the term.

§ 1673. At least six days before the drawing the county clerk must publish notice thereof in at least three newspapers published in the city. He must also cause written notice thereof to be served upon the sheriff, the commissioner of jurors, and at least three judges of one or more courts of record, residing in the city.

Id. §1100.
Notice of
drawing.

§ 1674. If at least one judge of a court of record, residing in the city, and also the commissioner of jurors, and the sheriff, in person, or represented, as prescribed in the last section but one, do not attend, the clerk, or in his absence, the deputy-clerk, must adjourn the drawing to the next day. Thereupon the clerk must forthwith cause to be served upon the absent commissioner or sheriff, and upon at least three judges of one or more courts of record, residing in the city, written notice to attend the drawing upon the adjourned day.

Id. §1101.
Proceedings if
officers do not
appear.

§ 1675. If the officers specified in section sixteen hundred and seventy-two attend upon the adjourned day, but not otherwise, the clerk, or in his absence, the deputy clerk, must proceed, in their presence, to draw the jurors.

Id. §1102.
When jury to
be drawn on
adjourned day.

§ 1676. The drawing must be conducted as follows:

1. The county clerk or his deputy must shake the box containing the ballots, so as thoroughly to mix them.

Id. §1103.
Mode of draw-
ing; minute;
lists.

2. He must then, without seeing the name contained in any ballot, publicly draw out of the box one ballot; and continue to draw, in like manner, one ballot at a time until the requisite number has been drawn.

3. A minute of the drawing must be kept by one of the attending officers, in which must be entered the name contained in each ballot drawn before another ballot is drawn.

4. After drawing the requisite number, the minute of the drawing containing the names of the persons drawn, with the proper additions of each, and specifying for what court and for what term they were drawn, must be signed by the clerk or his deputy and the attending officers, and filed in the clerk's office.

§ 1677. If the term consists of two or more separate parts, the trial jurors for each part must be drawn, and a minute of the drawing must be made, signed, and filed, and the subsequent proceedings must be the same as if it was a distinct term.

Id. §1104,
Comp. 1807.
Id.; where
term consists
of two or more
parts.

Id. §1105.
Commissioner
may issue
notice to
jurors drawn.

§ 1678. The commissioner may issue to a trial juror so drawn a printed notice, informing him that he has been drawn, and will be duly notified by the sheriff, and containing copies of such portions of this title as the commissioner deems advisable.

Co. Civ. Proc.
§1106.
Sheriff to no-
tify jurors and
make return.

§ 1679. The clerk must deliver to the sheriff a certified copy of the minute, or of each minute, if there are two or more. The sheriff must notify each juror named therein to attend the term or part for which he was drawn, by serving upon him, at least six days before the commencement thereof, a notice, addressed to him, stating that he has been drawn as a trial juror for and is required to attend the term or part specified in the notice. The notice may be served personally, or by leaving it at the juror's residence or usual place of business, with a person of proper age and discretion. Before the commencement of the term or part, the sheriff must file with the clerk the certified copy of the minute, with a return, under his hand, indorsed thereupon or annexed thereto, naming each person notified, and specifying the manner in which he was notified.

Id. §1107.
Clerk of court
to certify as to
mode of serv-
ice.

§ 1680. The clerk of each court, for a term of which trial jurors are notified to attend by the sheriff, must certify to the clerk of the board of aldermen each case where less than a majority of the persons named in a minute of a drawing are returned as personally served. The board of aldermen are prohibited from allowing or paying any fees or charges to the sheriff for notifying any of the persons named in that minute or for making a return thereupon. A clerk of a court who omits to notify the clerk of the board of alderman, as prescribed in this section, is liable to a penalty of one hundred dollars for each omission, to be recovered by any person suing therefor.

Id. §1108,
as amended
1877, ch. 416.
Court may or-
der new panel
to be drawn
during term.

§ 1681. At any time, during the sitting of a term of court of record in the city, the court may direct an additional number of trial jurors to be drawn for the term, or for the part, at which the order is made. The order must specify the number to be drawn and the time of drawing. The drawing may be made either in open court, under the direction of the judge, or in the ordinary manner, except that notice is not required. The sheriff must forthwith notify the jurors drawn, by such a notice as the court directs, to attend the term or part at the time specified in the order.

Id. §1109.
Comp. 1508.
Court of record
to fine juror for
non-attend-
ance; power to
remit fine.

§ 1682. Where a person, duly sworn and notified to attend a term of a court of record as a trial juror, fails to attend at the time specified in the notice, or from day to day, the court, at that term, must impose upon him a fine of not less than fifty or more than two hundred and fifty dollars. A fine thus imposed may be wholly or partly remitted, by direction of the judge, in open court, before the end of the same term,

and upon good cause shown, otherwise it shall not be remitted, except as prescribed in sections sixteen hundred and eighty-six and sixteen hundred and eighty-seven. Each remission, so made by the judge, with the reason therefor, must be entered in the minutes of the court. This section applies to a special juror as well as to an ordinary trial juror.

§ 1683. Where a person, duly drawn and notified, fails to attend and serve at a term of a court of record, as required by law, without having been excused, the court, besides imposing a fine as prescribed in the last section, may direct the sheriff to arrest him and bring him before the court; and when he has been so brought, it may, in its discretion, compel him to serve.

Id. §1110.
Juror may also be arrested and compelled to serve.

§ 1684. A list of trial jurors for each of the district courts must be selected by the commissioner of jurors, and must consist of not less than fifty nor more than one hundred jurors. A person shall not be placed upon such a list who does not reside in the district in which the court is held. The judge of each district court must impose a fine of twenty-five dollars upon each person duly drawn and notified to attend the court as a trial juror who fails to attend as required by the notice. The clerk of the court must, within ten days thereafter, transmit to the commissioner of jurors a certificate showing that the fine has been imposed, and stating how the notice to attend was served upon the delinquent, in order that the same proceedings may be had as in the case of a delinquent juror in a court of record. A judge or a clerk who violates this section forfeits one hundred and fifty dollars for each offense.

Id. §1111.
Jurors for district courts; how selected. Punishment for non-attendance; clerk's duty; penalty for neglect.

§ 1685. The board for the selection of grand jurors must, at the time when it selects the grand jurors for each jury year, also select from the lists of trial jurors for that year the names of not less than one hundred and twenty nor more than one hundred and fifty persons, to constitute the sheriff's jurors for that jury year. The commissioner of jurors must forthwith transmit to the sheriff of the city and county of New York a list, certified by him, containing the names of the persons so selected, with the proper additions of each, and showing that they have been selected as prescribed in this section. The sheriff must cause ballots to be prepared as prescribed in article second of title third of chapter ten of the code of civil procedure, and to be deposited in a proper box. Where the sheriff is authorized or required by law to impanel a jury for any purpose, the requisite number of ballots must be drawn from the box, as prescribed in that article, by the sheriff, or by his under-sheriff or deputy sheriff. But the sheriff may, in his discretion, divide the names contained in the list into three panels, each containing an equal number of names as nearly as may be. In that case, he must

Co. Civ. Proc. §1112.
Sheriff's jury; how selected, etc.

designate the months in which each panel will be used, so that the jury duty shall be distributed equally, as nearly as may be, among the jurors; and ballots shall be deposited in the box at the beginning of each month, containing the names of the jurors designated for that month.

Id. §1113,
as amended
1879, ch. 542,
Comp. 1509.
Proceedings
before commis-
sioner.

§ 1686. The commissioner of jurors must cause a notice to be served upon each delinquent trial juror returned as having been fined, stating the amount of the fine and the time at which he was fined, and requiring him to attend before the commissioner, at the latter's office, on a specified day and at a specified hour, and show cause, if he has any, why the fine should be wholly or partly remitted, or why payment of the fine should not be enforced. The notice must be served at least six days before the day therein specified. If the sheriff's return shows that notice to attend as a trial juror was personally served upon the person fined, the notice to show cause, as prescribed in this section, may be served upon him either personally, or by leaving it at his residence or usual place of business, with a person of suitable age and discretion; otherwise it must be served upon him personally. If a person so notified fails to attend, the fine must be enforced. If he attends he may demand a hearing before the board for the enforcement of jury fines; otherwise the commissioner must decide with respect to the remission of the whole or any part of the fine, and the sufficiency of the cause shown, if any; and his decision is conclusive with respect to that fine, unless the person fined, within ten days thereafter, serves upon him a written demand of a hearing before the board of enforcement. In that case the commissioner must appoint a time for the hearing, and the person fined must then attend without further notice.

Co. Civ. Proc.
§1114.
Board for en-
forcement of
jury fines;
proceedings
before it.

§ 1687. The presiding justice of the supreme court, in the first judicial department, the chief judge of the court of common pleas, the chief judge of the superior court, the chief justice of the marine court, the mayor, the recorder, the city judge, the judge of the court of general sessions, and the commissioner of jurors, constitute the board for the enforcement of jury fines. The board must meet at the office of the commissioner of jurors, on the last Monday in October in each year, and on the last Monday of each month thereafter, until and including the following month of June; and as much oftener as the business before it requires. Three members of the board constitute a quorum. The board, either upon a hearing or when acting upon the commissioner's decision, as the case requires, has exclusive power, except as in this title otherwise prescribed, to remit the whole or any part of a fine. The board or the commissioner may, in its or his discretion, hear testimony, or determine a case upon affidavits, and

may, from time to time, adjourn the hearing or final disposition of a particular case.

§ 1688. The board may compel the attendance of any person required to appear before it, as prescribed in the last section but one. It may issue a warrant, directed to the sheriff of the city and county of New York, commanding him to arrest and bring before the board a person who fails to attend at the time appointed for hearing his case, or to pay a fine imposed upon him and not remitted by the board. If a delinquent trial juror, duly drawn and returned by the sheriff as personally notified to attend a term, or personally notified to attend before the commissioner, as prescribed in the last section but one, is, in the opinion of the board, able to pay his fine, the board may make an order directing the sheriff to arrest him, and imprison him in the county jail until the fine is paid, not exceeding thirty days. The sheriff must obey such an order. The board may make an order directing that a person paying a fine imposed upon him, be excused from jury duty for a period not exceeding one year.

Id. §1115,
Comp. 1510.
General powers
of board.

§ 1689. After ten days have expired since the final decision of the board of enforcement, with respect to a fine, as prescribed in the last section but one, if the fine has not been remitted or paid, the commissioner must issue a warrant, under his hand, directed to the sheriff of the city and county of New York, reciting the facts and commanding the sheriff to collect from each person named in the schedule annexed thereto the sum set opposite that person's name in the schedule, and to pay over the same to the commissioner. The schedule must contain the names of persons fined and notified to show cause, whose fines have not been wholly paid or remitted; it must show the amount of each one remaining unremitted or unpaid, and the residence or usual place of business of each person fined, as far as it can be conveniently ascertained. The sheriff must collect each fine, by a levy upon and sale of the personal property of the person fined, as prescribed by law, where an execution against property is issued upon a judgment rendered in a court of record. The sheriff is entitled in each case, to the same fees as upon such an execution, to be collected in the same manner. He must return the warrant and schedule, with his proceedings thereupon, to the commissioner, within thirty days after the delivery thereof to him, and must then pay over the money collected, less his fees. His return may be compelled by the supreme court, in the same manner as the return of an execution against property issued upon a judgment rendered in that court. For his failure to collect a fine an action may be maintained against him, in a case where such an action may be maintained by a judgment creditor against

Id. §1116.
Commissioner
to issue warrant
to collect fines;
sheriff's powers
and duties
thereupon

a sheriff failing to collect an execution against property, and with like effect. The provisions of section sixteen hundred and ninety-two apply to such an action.

Co. Civ. Proc.
§1117.
Comp. 1511.
Uncollected
fines to be dock-
eted and
enforced as
judgments.

§ 1690. The commissioner must, within thirty days after the return of the warrant to him, file with the clerk of the court by which each uncollected fine was imposed, a certificate to the effect that the warrant has been returned, and showing what fines remain uncollected. Thereupon the clerk must make, in the docket-book of judgments kept by him, the same entries, as nearly as may be, with respect to each uncollected fine, as if it was a final judgment rendered in an action. If the fine was imposed by a court other than the supreme court, the clerk thereof must immediately transmit a transcript of the entries to the clerk of the city and county of New York, who must file it, and make the appropriate entries in his docket-book of judgments. The commissioner must pay the clerk's fees, at the rate allowed for similar services, with respect to judgments. When the entries have been made, the fine, with interest, becomes a lien upon the real property of the person fined, as if it was recovered by a judgment in the same court; and an execution to collect it may be issued, directed to the sheriff of the city and county of New York, as upon such a judgment. The commissioner has, in relation to the execution and the satisfaction of the fine, all the powers of the attorney for a party recovering such a judgment, in relation to the judgment and the execution issued thereupon.

Id. §1118.
Commissioner
to receive fines,
etc.
His account;
how rendered
and settled.

§ 1691. The commissioner of jurors must receive all money paid or collected for fines or penalties, as prescribed in this title, and he may make all payments therefrom which he is authorized by this title to make. He must give a receipt for any money paid to him for a fine or penalty. He must keep a just and faithful account of all receipts and payments, by items, showing the name of the person from whom each sum of money was received and to whom each sum of money was paid, and must, at all reasonable times, keep his account open to public inspection. At the end of each calendar year his account must be verified by his affidavit to the effect that it is in all respects just and true, and that he has not received any sum of money during the year for which he has not charged himself in the account. The account thus verified must be audited and certified by at least three other members of the board for the enforcement of jury fines, and the commissioner must thereupon pay over to the chamberlain of the city the balance, if any, in his hands. The account thus audited and certified must immediately be transmitted by the commissioner to the clerk of the board of aldermen, and must be published in the news-

paper designated, as prescribed by law, for the publication of the official proceedings of city officers.

§ 1692. The corporation attorney of the city of New York must, when required by the commissioner of jurors, prosecute in the proper court an action for the collection of each penalty incurred as prescribed in this title; unless he is satisfied, upon an examination of the case, that there is a defense to the action. The action must be maintained in the name of the mayor, aldermen, and commonalty of the city of New York, as plaintiffs. The commissioner, with the assent of the corporation attorney, may compromise, settle, or discontinue an action so brought. From the proceeds of an action prosecuted to judgment and execution, or compromised as prescribed in this section, the corporation attorney may retain the taxable or taxed costs. He must pay over the remainder to the commissioner.

Co. Civ. Proc.
1119.
Corporation
attorney to
prosecute for
penalties; com-
promise, etc.,
of action.

§ 1693. A physician who knowingly gives a false certificate, or makes a false representation, for the purpose of enabling or assisting a person to be discharged, excused, or exempted from service as a trial juror in the city and county of New York, is guilty of a misdemeanor.

Id. §1120.
Comp, 1612.
Penalty for
physicians giv-
ing false cer-
tificate.

§ 1694. A person to whom application is made, within the city of New York, by the commissioner of jurors, or by his authority, for information as to a fact, upon which the liability of himself or any other person to serve as a trial juror depends, and who refuses to give information relating thereto, which he can give, or knowingly gives false information relating thereto; or a person who knowingly makes to the commissioner of jurors, or to a person acting by his authority, a false representation as to the identity, residence, or any other matter relating to the liability of himself or any other person to serve as a trial juror, forfeits fifty dollars for each offence.

Id. §1121.
Persons re-
quired to fur-
nish informa-
tion; penalty
for refusal, etc.

§ 1695. A person who gives, pays, promises, or offers money or any other thing to the commissioner of jurors, the sheriff, the county clerk, or other clerk of a court; or to the deputy of, or a person employed by, the county clerk or other clerk of a court; or to an officer, messenger, or other person, employed by the sheriff or the commissioner of jurors—for the purpose of enabling or assisting himself, or any other person named or drawn as a trial juror, to evade, or to be discharged, exempted, or excused from service; or who knowingly makes a false statement or representation to a judge, the commissioner of jurors, or a member of the board of enforcement of jury fines, for such purpose; or who knowingly retains, conceals, suppresses, or willfully destroys a notice to attend, before the commissioner of jurors, or at a term of a court, or any other paper, relating to the liability to serve, or service, as a trial juror, left at the

Id. §1122.
Punishment for
bribery of offi-
cers, etc., by
jurors drawn.

residence or place of business of another, who has been named or drawn as a trial juror, is guilty of a misdemeanor. The district attorney must prosecute for each offense, specified in this or the next two sections, which comes to his knowledge.

Id. §1123.
Id.; for officer
accepting
bribes, etc.

§ 1696. An officer, or a person employed by the sheriff, by the commissioner of jurors, or by the county clerk, or other clerk of a court, who takes money, or any other thing as a gift, bribe, or payment, for the purpose of enabling or assisting a person named or drawn as a trial juror to evade, or to be discharged, exempted, or excused from jury duty; or who willfully and knowingly prevents or hinders the execution of any provision of this title, is guilty of a misdemeanor.

Co. Civ. Proc.
§1124.
Comp. 1518.
Id.; for conceal-
ing offer to take
bribe, etc.

§ 1697. A person named or drawn as a trial juror, to whom an offer or suggestion to procure his discharge, exemption, or excuse from jury duty, for or in consideration of a corrupt inducement or reward, is made by any person, and who fails within twenty-four hours thereafter to inform the commissioner of jurors thereof, is guilty of a misdemeanor.

Id. 1125.
False swearing;
when perjury

§ 1698. A person who swears falsely in an affidavit, or testifies falsely upon an inquiry, made as prescribed in this title, is guilty of perjury, in a case where falsely swearing in an affidavit used upon a motion in a civil action, or falsely testifying upon the trial of an issue of fact in such an action, would constitute that crime.

CHAPTER XX.

MARSHALS AND NOTARIES PUBLIC.

Title 1.—The Marshals.

1871, ch. 804, §1.
Comp. 1479.
1876, ch. 349,
Comp. 1480.
1873, ch. 335,
§25, Comp. 68.
Number and
manner of ap-
pointment of
marshals.
Vacancies, how
filled.
1862, ch. 484, §4,
Comp. 1475.
1876, ch. 349,
Comp. 1480.

§ 1699. In eighteen hundred and eighty-five, the mayor shall nominate and, by and with the consent of the board of aldermen, appoint thirty-seven marshals, who shall hold their respective offices for the term of six years from the first day of May in said year. Any person appointed after the commencement of the term as herein prescribed shall hold only until the expiration of such term and until a successor is duly appointed and qualified. There shall be appointed in like manner, in every sixth year

thereafter, the same number of marshals, who shall hold office for six years from the first day of May in the year in which they are required to be appointed. The provisions of section one hundred and six of this act apply thereto. Each of said marshals shall be a resident of the district wherein the court for or to which he is appointed is located. Two of said marshals shall be assigned to the district court in the district composed of the Twenty-third and Twenty-fourth wards.

§ 1700. No marshal shall be permitted to enter upon the duties of the office until he shall execute a bond, with two sufficient sureties, who shall be residents of and shall own real estate in the county of New York to the amount of double the penalty of the bond, to the mayor, aldermen, and commonalty of the city of New York, in the penal sum of one thousand dollars, jointly and severally to answer the said mayor, aldermen, and commonalty, and any parties that may complain, conditioned that such marshal shall well and faithfully execute the duties of said office of marshal without fraud, deceit, or oppression, such sureties to justify in double the amount of such bond. The said bond shall be delivered to the mayor of said city for approval, who shall judge of and determine the competency of the sureties; and should he approve of the same, he shall note his approval thereon, and shall cause such bond to be filed in the office of the clerk of the court of common pleas, within ten days after the same shall have been approved of by him, and he shall either approve of or reject such bond within five days after the same shall have been presented to him for that purpose.

1902, ch. 484, §5.
Comp. 1475.
Bond.

Approval of
sureties.

Bond to be filed.

§ 1701. Any person who shall be aggrieved by any official misconduct on the part of any marshal, and who may desire to prosecute his official bond, and who shall have first obtained judgment against such marshal for official misconduct, may move before a justice of the court of common pleas, at the chambers thereof, after giving such marshal and his sureties eight days, previous notice of intention so to do by personal service of said notice on them, stating when such motion will be made, and of the papers to be used on such motion, for leave to prosecute such official bond in his own name, and such leave shall be granted upon it appearing satisfactorily to such court:

Id. §6.
Prosecution of
bond.

1st. That a judgment has been obtained in his favor against such marshal for official misconduct, specifying the time when and the court whereby such judgment was rendered, and the amount thereof.

2d. That transcript of such judgment has been filed in the office of the clerk of the city and county of New York, specifying the time when such transcript was filed and execution issued, and that said sheriff has returned said execution wholly or

partly unsatisfied, after having demanded payment thereof of such marshal; and his neglect or refusal to pay the same, and if any payments have been made on such execution, specifying the amount thereof, but where such marshal shall have died or removed from the county, a demand for the payment of the amount of such execution shall not be necessary.

3d. That such judgment is wholly or partly unpaid, specifying the amount uncollected or unpaid, and that the sureties have been served with the notice and papers hereinbefore mentioned.

1862, ch. 484, §7.
Comp. 1476.
Where bond
may be prose-
cuted.

§ 1702. Such justice may order such bond to be prosecuted in any of the district courts or in the marine court, and either of said courts shall have jurisdiction in actions brought on such bond, upon such leave being granted, and the said justice upon said motion may award the aggrieved party his reasonable costs on such motion, not exceeding the sum of ten dollars which shall be included in the judgment obtained upon such bond.

Id. §8.
Transcript of
judgment.

§ 1703. Whenever any judgment shall be rendered against any marshal or his sureties in the marine court, or in any of the district courts, a transcript thereof shall be filed in the office of the clerk of the court of common pleas, and from the filing of such transcript such judgment shall be deemed to be a judgment of such court, and shall be enforced in the same manner as other judgments of said court. And no execution on such judgment shall issue to any other officer than the sheriff, and all such executions must be made returnable to the clerk of said court.

To whom exe-
cution to issue.

Id. §9.
Comp. 1477.
Entry to be
made on bond.

§ 1704. The clerk of said court shall make a memorandum on the official bond of every marshal, upon the filing of every transcript of a judgment obtained against him and his sureties, and of the time when and the court whereby such judgment was rendered, and the amount thereof, and shall be entitled to a fee of fifty cents therefor, which the court rendering judgment shall have power to include in such judgment, together with whatever other disbursements are or may be necessarily incurred in said action, and the said bond shall be canceled to the amount of such judgment.

Id. §10.
Amount col-
lected to be
credited on
bond.

§ 1705. Whenever any action shall be commenced against the sureties of any marshal, and such sureties shall pay the amount for which such suit is brought, and the costs and disbursements incurred therein, or any part thereof, the party or parties so paying shall be entitled to have such sum so paid credited upon such bond, upon presenting the certificate of the plaintiff or his attorney in such action, acknowledging such payments to such clerk aforesaid, and upon such clerk indors-

ing such payment on such bond, it shall be canceled to the amount so paid.

§ 1706. Whenever any complaint shall be made by any person against any marshal aforesaid for official or disorderly conduct, or for fraudulent practices in and about said courts, to the court of common pleas, and it shall satisfactorily appear to such court, after hearing said marshal in regard to such complaint, that such marshal is guilty of the offense charged by such person against him, such court may order that such marshal be suspended from performing the duties of the office for such time as the said court of common pleas may direct; or such court may, in its discretion, remove such marshal from office, and forbid and prevent him from further performing or exercising any duties as marshal aforesaid, and on such removal being made, some competent person shall be appointed in his place to fill such office.

Id. §11,
as amended
1864, ch. 569, §1.

§ 1707. Whenever judgment shall be rendered against the official bond of any marshal sufficient to cancel the same, the clerk of the court of common pleas aforesaid shall report to the mayor that fact, and it shall be the duty of the mayor to compel such marshal to renew his official bond, and should such marshal neglect or refuse to renew such bond within ten days after being notified so to do, he shall be removed by the mayor aforesaid, or suspended from performing the duties of the office until such time as he shall renew the same, and such bond shall be renewed in the same manner as often as the same shall be canceled.

1862, ch. 484, §12,
Comp. 1477.
When bond to
be renewed.

§ 1708. Every marshal shall, within thirty days after his appointment, enter into a bond in the manner aforesaid, or he shall be deemed to have waived his appointment as such marshal, and some other suitable and proper person shall be appointed in his place and stead to discharge the duties appertaining to such office of marshal.

Id. §13.
Comp. 1478.
When appointment of marshal waived.

§ 1709. Every summons, order of arrest, attachment, or other process issued by or out of any district court, or by any justice thereof, and every summons or precept issued by the clerk of a district court, and every summons issued by any justice thereof, shall be served and executed by a marshal of said city, except that the justice of the court wherein the action is commenced may depute some competent person to serve the summons and complaint in any such action; but the person so deputed to serve such summons and complaint shall not be entitled to any fees or other compensation therefor, except the persons who serve process for the corporation attorney.

Id. §14,
as amended
1879, ch. 102, §1.
Process, by
whom served.

§ 1710. Fees shall be allowed to the said marshals for services rendered under the provisions of this title, as follows: For

Id. §15,
as amended
1865, ch. 569.
Marshals' fees.

serving a summons, order of arrest, or attachment on one defendant, one dollar, and for every additional defendant actually served, fifty cents; for a copy of every summons delivered on request, or served, fifteen cents; for a copy of every attachment and of the inventory of the property attached, fifty cents; for serving and levying an execution or selling under an attachment, five cents for every dollar collected to the amount of one hundred dollars, and two and a half cents for every dollar collected over one hundred dollars; for every mile, going only, more than one mile, when serving a summons, order of arrest, attachment or execution, six cents, to be computed from the place of abode of the defendant, or where he shall be found, to the place where the same is returnable; for summoning a jury, one dollar and fifty cents; for going with the plaintiff or defendant to procure security, when security is ordered by the court, one dollar; for taking the defendant into custody on an order of arrest, execution, or commitment, two dollars and forty cents; serving a subpoena, twenty-five cents; for every levy actually made by virtue of an execution, one dollar; for serving a writ of possession or restitution, putting any person entitled into the possession of premises, and removing the tenant, when such powers can be exercised by a marshal, one dollar; and the same fees for travelling to serve the same as are herein allowed for serving a summons; for advertising for sale any property by virtue of any execution or attachment issued out of a district court, or by any justice thereof, one dollar; for every day necessarily employed in attending such sale, one dollar. The said marshals shall perform all other services required of them by law without any fees or compensation whatever therefor, and no other fees, charges or compensation shall be allowed to, demanded or charged by any of the said marshals.

1865, ch. 400, §2.
Comp. 1480.

§ 1711. All provisions of law in relation to the taking of property by sheriffs of counties shall apply to the taking of property by the said marshals.

Title 2.—Notaries Public.

1853, ch. 44, §2.
Comp. 1469, and
numerous acts
in Comp. on
pages 1469 to
1474.
1880, ch. 160, §3.

§ 1712. The Governor may appoint, by and with the advice and consent of the Senate, as many notaries public in and for the city and county of New York as he may deem necessary, provided the number in commission at any one time shall not exceed twenty-seven hundred and ten. But there may be from time to time appointed, in addition to such number, one notary on the application of each bank located in said city. At the time of subscribing or filing the oath of office the clerk of the city and county of New York shall collect from the person appointed the

1875, ch. 87, §1.
as amended
1873, ch. 254.
Comp. 1473.

sum of fifty cents, and the said clerk shall annually account therefor to the State treasurer. But such clerk shall be entitled to retain from the gross amount so received the fees now allowed by law to him from the State for notifying such notaries public of their appointment to office, for giving notice to the governor of such notaries public as have taken the oath of office, and for giving such notice of notaries public who have neglected to take the oath of office, or of vacancies created for any cause in such office.

Collection, etc.,
of sum from
notaries.

§ 1713. Any notary public appointed for the county of Kings, Queens, Richmond, Westchester, Putnam, Suffolk, and Rockland, or for the city and county of New York, upon filing a certified copy of his appointment, with his autograph signature, in the clerk's office of any other of said counties, is hereby authorized to exercise all the functions of his office in such other of said counties, and also in the county in which he resides for each of such counties, with the same effect as he now possesses by law in the county for which he is appointed. And the county clerk of any of said counties in whose office any notary public, appointed as aforesaid, shall have filed a certified copy of his appointment, with his autograph signature, is hereby authorized and required, whenever so requested, to subjoin to any certificate of proof or acknowledgment, signed by such notary public, a certificate under his hand and official seal, specifying that said notary public has filed a certified copy of his appointment, with his autograph signature, in his office, and was, at the time of taking such proof or acknowledgment, duly authorized to take the same, and that said clerk is well acquainted with the handwriting of said notary public, and verily believes that the signature to the said certificate of proof or acknowledgment is genuine. And any conveyance so proved or acknowledged, and having such county clerk's signature subjoined thereto, shall be entitled to be read in evidence or to be recorded in any of the counties of this State.

1873, ch. 807, §1.
as amended .
1875, ch. 458, §1.
Comp. 1466.
1880, ch. 284, §1.
Notaries public
of counties
named may file
certificate of
their appoint-
ment, etc., in
any other of
said counties.

Clerk to sub-
join certificate.

Conveyances
so acknowl-
edged, etc., to
be read in
evidence.

CHAPTER XXI.

THE COUNTY OFFICERS.

Title 1.—The Sheriff.

Amount of
penalty in his
bond.

1 R. S. ch. 12,
art. 5, §§68, 69,
Comp. 1437.
Filing of bond;
oath of sure-
ties.

M. §75.
Co. Civ. Proc.
§120.
Custody of
jails.
Co. Civ. Proc.
§145.

1880, ch. 154, §1.
Office to be
kept open
every day
except Sundays
and legal holi-
days.

Office hours.
When holiday
falls on Sun-
day.

1880, ch. 398, §1.

§ 1714. The bond to be executed by the sheriff of the city and county of New York shall be in the penal sum of twenty thousand dollars, with two sureties. Every such bond shall be filed in the clerk's office of the county, and the clerk shall, at the time of filing the same, administer an oath to each of the sureties named therein, that he is a freeholder within this State, and worth the sum of twenty thousand dollars; which oath shall be indorsed on the bond, and subscribed by each of the sureties in the presence of the clerk, who shall, notwithstanding, judge of and determine the competency of such sureties.

§ 1715. The sheriff shall have the custody of the jail used for the confinement of persons committed on civil process only, and of the prisoners in the same. The building now used as a jail for the confinement of such persons shall be and continue the jail of the city and county of New York for the confinement of such persons. The liberties of the jail are the whole of the city.

§ 1716. The sheriff shall keep his office open for the transaction of business every day in the year except Sundays; the first day of January, commonly called new year's day; the twenty-second day of February, known as Washington's birthday; the thirtieth day of May, commonly called decoration day; the day observed as the anniversary of American independence; election day; the day appointed by the governor of this State as a day of general thanksgiving, and the twenty-fifth day of December, commonly called Christmas, from nine o'clock in the forenoon to four o'clock in the afternoon. Whenever any of the holidays mentioned aforesaid shall fall on Sunday, the Monday next following shall be deemed and considered as the first day of the week or Sunday, and a public holiday.

§ 1717. All orders of arrest, warrants of attachment, executions and proceedings to recover personal property in civil actions, except when the sheriff is a necessary party thereto, made or issuing out of any court of record in the city and county of New York, whether by statute or otherwise, shall be issued to the sheriff only.

§ 1718. The sheriff shall, on the first day of every month, transmit to the secretary of state a statement of the number of persons convicted in courts of special sessions during the preceding month in New York. Such statements shall specify the crimes, the whole number convicted, sex, age, nativity, married or single, degree of education, religious instruction, parents living or dead, whether before convicted of any crime or not, and whether temperate or intemperate. All courts in the city of New York having jurisdiction in cases where criminal convictions are had, are hereby, for the purposes of this chapter, declared courts of special sessions, whether composed of one or more police magistrates.

1867, ch. 604, §5,
Comp. 1474.
Sheriff to report
convictions, etc.

Title 2.—The County Clerk.

§ 1719. The clerk of the city and county of New York shall be chosen at a general election.

1842, ch. 130, §2,
Comp. 1443.

§ 1720. In every case where a vacancy shall occur in the office of clerk of the city and county of New York, the governor shall appoint some fit person who is eligible to the office to execute the duties thereof until it shall be supplied by an election. The person so appointed, after taking the oath of office and executing a bond, if one be required of the officer in whose place he shall be appointed, shall possess all the rights and powers, and be subject to all the duties and obligations of the officer to whom he succeeds. When the right of office of a person elected to the office of clerk shall cease before the commencement of the term of service for which he shall have been elected, a special election shall be held to elect a successor.

1 R. S. ch. 5,
title 6, §49,
Comp. 1436.
1830, ch. 58, §2,
Comp. 1452.
1842, ch. 130, §6,
Comp. 1443.
Vacancies in
office of clerk.

§ 1721. The office of clerk of the city and county is so far local as to require the residence of every person holding such office within the city.

1 R. S. ch. 5,
title 1, §15,
Comp. 1433.

§ 1722. There shall be allowed to the clerk a salary at and after the rate of three thousand dollars a year as his compensation, which shall be in lieu of all fees, perquisites, and emoluments for discharging the duties of county clerk, and for the performance of any other duty prescribed by law, directly or indirectly, to the said clerk, or which he may perform by virtue of that office, except as in the next section provided. The board of aldermen may in every second year after the year one thousand eight hundred and eighty-one, increase or diminish the salary of the county clerk, but no such increase or diminution shall reduce such salary below two thousand dollars or increase it above three thousand dollars.

1847, ch. 482,
§§3, 6,
Comp. 1439.
Compensation
of clerk.

The board of
aldermen may
increase or di-
minish salary.

§ 1723. The clerk shall be entitled to charge and receive for his services, in addition to his salary, in making searches in his office, as follows:

1853, ch. 142,
§§1, 2,
Comp. 1447.
Clerk's fees au-
thorized.

For searching the dockets of judgments and decrees, and transcripts of judgments and decrees, fifteen cents per year.

For searching all other matters of record he may be required to search for, five cents per year respectively.

For returning in his search any judgment or other matter of lien five cents each.

It shall be lawful for the said clerk to retain to his own use the fees specified in this section.

Id. §3.
Competent
searchers to be
employed.

§ 1724. It shall be the duty of the said clerk to provide a sufficient number of competent searchers, for the prompt and correct dispatch of the business of that department, at such compensation as he may consider their services reasonably worth; and the searchers in the said office shall draw no salaries from the city treasury.

Id. §4.
Clerk to make
searches with-
out delay.

Clerk liable for
damages for
errors.

§ 1725. It shall be the duty of said clerk on the receipt of any order directing the searches in his office, to cause the same to be made without delay, and to certify the correctness of his return within ten days from the receipt of the requisition therefor, and he shall be held legally liable for all damages resulting from errors, inaccuracies, or mistakes in his return so certified by him; and in case he shall not have completed and certified such requisition for search at the expiration of the ten days aforesaid, then he shall forthwith complete and certify such return, with like liability, and forfeit all fees above allowed therefor.

1847, ch. 342, §1,
as amended
1863, ch. 610, §4,
Comp. 1439.
Fees and emol-
uments shall
belong to the
city of New
York.

§ 1726. All the fees, perquisites and emoluments of the clerk or which he may now or hereafter by law be permitted or entitled to take by virtue of his office, for all official services whatsoever rendered by him, shall, except as otherwise specially provided, belong to and be for the benefit of the city and county of New York, and shall be collected by him, and accounted for and paid over into the treasury of said city and county.

Id. §§7, 8,
as amended
1861, ch. 15,
Comp. 1440.
Assistants may
be appointed.

Appointments
to be made in
writing.

§ 1727. The said clerk shall have the power to appoint so many assistants to aid him in the performance of the duties of his office as he shall deem necessary for that purpose, not exceeding the number now authorized by law, and which he shall, from time to time, be authorized to appoint by the board of aldermen, whose duty it shall be, from time to time, to prescribe the number of assistants that may be so appointed, which number may at any time be increased or diminished by the said board; and the said board shall also fix and may from time to time change the salaries to be paid to the assistants so appointed, but no such salary shall exceed the rate of twelve hundred dollars a year, except as herein otherwise provided. The appointment of every assistant under and by virtue of this act shall be made in writing and filed in the office of the clerk of the city and county of New York before such assistant shall enter upon

the discharge of his duties; and the officer who shall appoint any such assistant shall be responsible for the act of such assistant.

§ 1728. It shall be the duty of the clerk to keep an exact account in a book or books to be provided for that purpose, at the expense of the people of the city of New York, of all fees, perquisites, and emoluments actually received by such officers, respectively, for any service done by him or his assistants in his or their official capacity, by virtue of any law of this State; and of all fees, perquisites, and emoluments which such clerk shall be entitled to demand and receive from any person for any service rendered by him in his official capacity pursuant to law. Such books shall show when and for whom every such service shall have been performed, its nature, and the fees chargeable therefor; and shall, at all times during office hours, be open to the inspection, without any fee or charge therefor, of all persons desiring to examine the same; and they shall be deemed a part of the records of the office in which they shall be kept, and shall be preserved therein as other books of records are.

Id. §9,
as amended
1853, ch. 610, §4,
Comp. 1440.
Exact account
of fees to be
kept.
15 How. 159.

§ 1729. A transcript of such accounts to be made in such form as shall be prescribed by the comptroller of the city, shall be transmitted by such officer for each calendar month and within ten days from the expiration thereof, to the comptroller, which shall be verified by the oaths of such officer, or by his assistant, which transcript shall contain a statement of all moneys received by such officer for fees, perquisites, and emoluments, for services done by him or his assistants, in his official capacity by virtue of any law of this State since making the last preceding transcript and return specifying the total amount received from each person and the name of each person; and also a statement of the fees, perquisites, and emoluments which such officer or his assistants shall be entitled to demand from any person for services rendered in his or their official capacity, by virtue of any law of this State since making the last preceding return, which shall have been made by such officer, specifying the amounts chargeable to such person, the names of such persons, and the character of the service rendered. And the verification of every account so transmitted to such comptroller shall be positive, and not upon information or belief.

1847, ch. 432, §10,
Comp. 1441.
Transcripts of
accounts to be
made to city
comptroller
monthly.

§ 1730. No account for the compensation for services of any assistant to be appointed under and by virtue of this title, shall be allowed until such assistant shall have certified, on oath or affirmation, that the services have been performed for which such account may be rendered, and that he has not in any way, directly or indirectly, paid or given, nor contracted to pay or give any reward or compensation for his office or employment, or the emoluments thereof.

1847, ch. 432, §11,
Comp. 1441.
Compensation
to assistants,
when allowed.

Id. §12.
Penalty for
neglect, etc.

§ 1731. Any officer referred to in this title, who shall receive to his own use, or neglect to account for in such mode as the board of aldermen may direct, any fees, perquisites, or emoluments by this title declared to belong to and be for the benefit of the city and county of New York, or shall neglect to render to the said comptroller an account of the fees accruing at his office, or to pay over the same, as herein required, shall be deemed guilty of a misdemeanor, and punishable with a fine of not less than five hundred dollars, nor exceeding five thousand dollars, or imprisonment in the penitentiary for a period not less than three months nor exceeding one year, or both at the discretion of the court before whom said officer may be convicted, and in addition shall forfeit any sum that may be due to him on account of his salary, and shall be liable to the said city and county in a civil action for all moneys so received and not accounted for and paid over into the treasury of said city and county pursuant to the requirements of this title.

1866, ch. 572.
§§1, 2,
Comp. 1449.
1847, ch. 432, §7;
1861, ch. 15,
Comp. 1450.
1867, ch. 415, §2,
Comp. 1450.
1869, ch. 875, §1,
Comp. 1450.
1870, ch. 832, §1,
Comp. 1451.
Resolutions of
supervisors.
Dec. 23, 1847;
Dec. 22, 1863;
Feb. 27, 1860;
May 26, 1863;
Nov. 24, 1869;
Dec. 23, 1854;
Dec. 23, 1862;
Dec. 27, 1852;
Mar. 2, 1863.

§ 1732. There may be in the office of the county clerk, in addition to the persons appointed by him and attached to the supreme court, the following persons, who shall be appointed and may be removed by him at pleasure: a deputy county clerk, at an annual salary of thirty-five hundred dollars; an assistant deputy county clerk, at an annual salary of three thousand dollars; a mechanics' lien clerk, at an annual salary of four thousand dollars; a docket clerk, at an annual salary of three thousand dollars; an assistant docket clerk, at an annual salary of twenty-five hundred dollars; a clerk of records, at an annual salary of twenty-five hundred dollars; a bookkeeper, at an annual salary of fifteen hundred dollars; a clerk in chancery, at an annual salary of fifteen hundred dollars; two recording clerks, at an annual salary of fifteen hundred dollars each; eight recording clerks, at an annual salary of twelve hundred dollars each; three recording clerks, at an annual salary of eleven hundred and twenty-five dollars each, one recording clerk, at an annual salary of nine hundred dollars; one recording clerk, at an annual salary of six hundred dollars; one recording clerk, at an annual salary of four hundred and fifty dollars; one messenger, at an annual salary of nine hundred dollars.

1867, ch. 415,
Comp. 1449.
Repairing
records.
See 1846, ch. 122.

§ 1733. Whenever any books or records affecting titles to real estate, or liens on the same or any other books or records, or transcripts of judgments, in the office of the clerk of the city and county, shall have become mutilated or injured, by use or otherwise, so that they cannot be conveniently or correctly examined, the said clerk shall cause copies of the same to be made; and the expenses thereof shall be a charge upon the said city and county, and shall be paid by the comptroller upon the certificate of the

said clerk that such copies were made pursuant to his orders, at the rate of six cents per folio, not to exceed the sum of ten thousand dollars. The said copies, when certified by the said clerk to be correct copies of the original, shall have the validity of the said original.

§ 1734. The clerk shall forever be relieved, restrained, and precluded from doing or performing any duties or services, or any act, matter, or thing whatsoever as clerk of the city and county, so far as the same relates to the registering of mortgages, and recording of deeds, conveyances, and other writings which by law are or hereafter may be directed and required to be recorded or registered, save as otherwise specially provided by law.

1813, ch. 86, §160.
Comp. 1451.
Clerk of New York inhibited from performing certain acts.

§ 1735. It shall be the duty of the clerk to assign one or more suitable persons in his office to have the custody of the records in said office during office hours, by whom or in whose presence, under the direction of said clerk, all examinations of such records shall be made; such persons, however, shall be paid by such clerk, and not by the city and county of New York.

1861, ch. 172, §1.
Comp. 1448.
Custody of records.

§ 1736. The board of aldermen are authorized to require from the county clerk and any of his assistants such security for the faithful performance of these duties as to said board seems necessary and proper.

1847, ch. 432,
§13, as amended
1853, ch. 610,
Comp. 1441.

Title 3.—The Register.

§ 1737. The register shall be chosen at a general election. A special election shall be held when the right of office of a person elected to the office of register shall cease before the commencement of the term of service for which such officer shall have been elected.

1842, ch. 130,
§§2, 6,
Comp. 1443.
Special elections.

§ 1738. In every case where a vacancy shall occur in the office of register the governor shall appoint some fit person who was eligible to the office to execute the duties thereof until it shall be supplied by an election. The person so appointed, after taking the oath of office, shall possess all the rights and powers, and be subject to all the duties and obligations of the officer to whom he succeeds.

1 R. S. ch. 5,
title 6, §49,
Comp. 1436.
1830, ch. 53, §2,
Comp. 1432.
Vacancies in office.

§ 1739. The register is so far local as to require the residence of every person holding such office within the city.

1 R. S. ch. 3,
title 1, §13,
Comp. 1430.

§ 1740. The register is authorized to appoint a deputy register, and also an assistant deputy register, each of whom shall, within the office of the said register, possess the same powers and be subject to the same duties and responsibilities as the deputy county clerks in the various counties of this State are possessed of, and subject to their respective offices. The compensa-

1853, ch. 610, §1,
Comp. 1452.
Deputy and assistant register may be appointed.
15 How. 152.
1830, ch. 58, §1,
Comp. 1452.

tion of each of said officers shall be fixed and paid by the said register. As often as such deputy register shall die, or be removed from office, or remove out of the said city and county, or become incapable of executing the office, another shall be appointed in his place, by writing, under the hand and seal of the register; and every such deputation or appointment shall be recorded in the office of the clerk of the city and county of New York; which said deputy register shall, in case of the death of the said register, perform all the duties and receive the emoluments appertaining to the said office of register, and be subject to the same penalties that the register of said city and county would be liable to if living, until a new register be appointed and duly sworn.

1860, ch. 276, §34,
Comp. 1444.
Register's
office, when to
be kept open.

§ 1741. The register shall keep open his office for the transaction of business, every day in the year, except Sundays and such other days as are or shall be declared by law to be holidays, from nine o'clock in the forenoon to four o'clock in the afternoon.

1867, ch. 172, §1,
Comp. 1446.
Custody of
records.

§ 1742. It shall be the duty of the register to assign one or more suitable persons in his office to have the custody of the records in said office during office hours, by whom or in whose presence, under the direction of said register, all examinations of such records shall be made; such persons, however, shall be paid by such register, and not by the city and county of New York.

1863, ch. 610, §2,
Comp. 1453.
Register's
duties.

§ 1743. It shall be the duty of said register to cause any and every written order or written requisition for search to be made without delay, and to be certified and ready for delivery within twenty days from the receipt of such written order or requisition by him, and he shall be liable for all damages and injuries resulting from errors, inaccuracies, or mistakes in his return so certified by him, and from delays in completing such orders or requisitions; and in case any such order or requisition shall not be completed and certified within said twenty days, the said register shall forthwith complete and certify the same, and shall forfeit all fees therefor.

1813, ch. 86, §159,
Comp. 1458.
Register's office
established.

Register to be
appointed.
His rights and
powers.

§ 1744. All that part of the duty performed prior to the ninth day of April, eighteen hundred and thirteen, by the clerk of the city and county of New York which appertains and relates to the registering of mortgages, and to the recording of deeds, conveyances, and other writings, which by law are directed, or hereafter may be directed to be registered or recorded, shall continue to be held, exercised, and enjoyed by the register in and for the city and county of New York; and such register shall have and enjoy all the rights and powers and perform all the duties which were formerly performed by the clerk of the city and county of

New York in relation to the recording and registering of deeds, conveyances, mortgages, and other writings.

§ 1745. The transcript of all records certified by the said register may be read in evidence in any court of this State, without further proof of such deed, conveyance, or other writing so recorded in the said office.

Id. 161.
Register's fees.
Transcripts of
records certifi-
ed by him de-
clared legal.

§ 1746. Whenever any such assessment, rate, tax, charge, debt, duty, or demand shall be satisfied or discharged, and a certificate signed by the incumbrancers, their successors, executors, administrators, or assigns, or any person by them thereunto authorized, and proved and acknowledged in the manner by law required for the acknowledgment or proof of deeds, shall be produced to the said register, such register shall enter into the said book of registry a minute of such discharge and certificate, which minute shall be deemed and taken to be a full and absolute bar to the first entry of such note or memorandum of such assessment, rate, tax, charge, debt, duty, or demand; but it shall not be necessary for the said register, on entering such minute or registering any such note or memorandum aforesaid, to record or register the same, or any certificate of the proof or acknowledgment thereof, at length or more fully than hereinbefore is directed; and the said register shall be entitled to demand and receive from the person producing such certificate of discharge, for entering such minute thereof, the sum of twenty-five cents.

1813, ch. 86, § 163.
Comp. 1455.
Entry of dis-
charge and
certificate.

§ 1747. The said register shall make an index to each book of registry of mortgages and incumbrances, and also a general index to all the said books of registry of mortgages and incumbrances, and shall from day to day and time to time, as the said mortgages and incumbrances shall be registered or entered as aforesaid, make an entry in the index of the books wherein the same shall be registered or entered, and also in the said general index of the name and names of each and every mortgagor, debtor, and owner or proprietor of land, mortgagee, incumbrancer, and party named in such mortgage, or in such note or memorandum of assessment, rate, tax, charge, debt, duty, or demand, so to be registered or entered as aforesaid, arranged alphabetically under the initial letters of the name of each and every mortgagor, debtor, owner, or proprietor of land, mortgagee, incumbrancer, and party named therein, with proper references in the said general index to the book of registry, wherein the said mortgages and incumbrances shall be entered or registered, to which books of registry and indexes all persons shall have free access for search at all reasonable times during the daytime, and which the said register shall be bound to exhibit to those who wish to search. No additional charge shall

Id. § 164.
Index to books
of registry.

1813, ch. 86, §163,
Comp. 1456.

be made for such indexes as are herein directed to be made by the said register.

Id. §170.
Deeds hereaf-
ter made to be
recorded.

§ 1748. No deed or conveyance in fee simple absolute of any lands, tenements, hereditaments, or real estate within the city and county of New York, which hath been made and executed since the first day of April, in the year of our Lord one thousand eight hundred and eleven, shall be deemed or taken to be good and effectual in the law, as against any subsequent purchaser or mortgagee bona fide, and for valuable consideration, and without notice of such prior deed or conveyance, unless such deed or conveyance was recorded at length in the office of the clerk of the said city and county, on or before the first day of May, in the year of our Lord one thousand eight hundred and twelve, or hath been or shall be so recorded in the office of the register in and for the said city and county, previous to a subsequent purchase or mortgage as aforesaid.

1813, ch. 86, §171.
Comp. 1456.
Deeds hereaf-
ter made to be
recorded.

§ 1749. Every such deed or conveyance which shall hereafter be made and executed, in order to be good and effectual in the law, as against any subsequent purchaser or mortgagee bona fide, and for valuable consideration, and without notice of such prior deed or conveyance, shall be recorded at length in the office of the said register, in the books now used or hereafter to be provided by him for that purpose.

Id. §172.
Register to
note on deed
the time when
left with him.
Record to bear
corresponding
date.

§ 1750. The said register shall make a note or memorandum on any deed or conveyance hereby directed to be recorded, and which shall be left with him, or in the said office, to be recorded, of the day, month, and year, and the hour of the day, when the same shall so be left with him, or in his office, to be recorded as aforesaid; and the record thereof shall bear date corresponding with the time mentioned in such note or memorandum.

Id. §173.
Register to
make an index
to each book
of record.

§ 1751. The said register shall make an index to each book of such records, and from day to day and time to time as the same deeds or conveyances shall be recorded, make an entry therein of the name and names of each and every grantor and grantors, and grantee and grantees, and parties named in such deed or deeds or conveyances, respectively, arranged alphabetically, under the initial letters of the name of each and every grantor and grantors, grantee and grantees, or party or parties named therein, either as conveying or receiving title thereby, to which records and indexes all persons shall have free access for search, at all reasonable times during the daytime, and which the said register shall be bound to exhibit to those who wish to search. No additional charge shall be made for such index as is before directed to be made.

Id. §174.

1843, ch. 189, §1
Comp. 1444.

§ 1752. The register shall provide proper books for making general indices of deeds and mortgages, and shall form indices

therein in such manner as to afford correct and easy reference to the several books of record in his office. There shall be one book for deeds and another for mortgages. In each book there shall be made double entries, or two lists of names in alphabetical order. In one shall be set the names of the grantors or mortgagors, followed by the names of their grantees or mortgagees; and in the other the names of the grantees or mortgagees, followed by the names of the grantors or mortgagors, leaving proper blanks between each class of names for subsequent entries.

Indices to be made to deeds and mortgages.

§ 1753. Every mortgage, or conveyance, intended to operate as a mortgage of goods and chattels, hereafter made, which shall not be accompanied by an immediate delivery, and be followed by an actual and continued change of possession of the things mortgaged, shall be absolutely void as against the creditors of the mortgagor and as against subsequent purchasers and mortgagees in good faith, unless the mortgage, or a true copy thereof, shall be filed as directed in this section. The instruments mentioned in this section shall be filed in the several towns and cities of this State, where the mortgagor therein, if a resident of this State, shall reside at the time of the execution thereof; and if not a resident, then the city or town where the property so mortgaged shall be at the time of the execution of such instrument. In the city of New York such instrument shall be filed in the office of the register of said city; such register is required to file all such instruments aforesaid presented to him for that purpose, and to indorse thereon the time of receiving the same, and shall deposit the same in his office, to be kept there for the inspection of all persons interested.

1883, ch. 279, §§1, 2, Comp. 1458. Chattel mortgage void unless filed.

How and where to be filed.

§ 1754. Every mortgage filed in pursuance of the preceding section shall cease to be valid as against the creditors of the person making the same, or against subsequent purchasers or mortgagees in good faith, after the expiration of one year from the filing thereof, unless, within thirty days next preceding the expiration of the said term of one year, a true copy of such mortgage, together with a statement exhibiting the interest of the mortgagee in the property thereby claimed by him by virtue thereof, shall be again filed in the office of the clerk or register aforesaid of the town or city where the mortgagor shall then reside.

1883, ch. 279, §3, Comp. 1458. Every year.

§ 1755. A copy of any such original instrument, or of any copy thereof, so filed as aforesaid, including any statement made in pursuance of the last section, certified by the register in whose office the same shall be filed, shall be received in evidence, but only of the fact that such instrument or copy and statement was received and filed according to the indorsement of the register thereon, and of no other fact; and in all cases the

Id. §4. A copy to be received in evidence.

original indorsement by the register upon such instrument or copy shall be received in evidence only of the facts stated in such indorsement.

Id. §5.
Mortgages to
be numbered.

§ 1756. The register shall number every such instrument or copy which shall be filed in his office, and shall enter in books to be provided by him, alphabetically, the names of all the parties to such instrument, with the number indorsed thereon opposite to each name, which entry shall be repeated alphabetically under the name of every party thereto.

§6.
Fees.

§ 1757. For services under the four preceding sections the register shall be entitled to receive the following fees: For filing each instrument or copy, six cents; for entering the same in a book as aforesaid, six cents for every party to such instrument; for searching for each paper, six cents, and the like fees for certified copies of such instruments or copies as are allowed by law to clerks of counties for copies and certificates of records kept by them.

3 R. S. ch. 7, title
3, §§63, 64,
Comp. 1437.
Papers offered
for safe keep-
ing.

§ 1758. The register, upon being paid the fees allowed therefor by law, shall receive and deposit in his office any deeds, conveyances, wills, or other papers or documents which any person shall offer to him for that purpose, and shall give to such person a written receipt therefor. Such instruments, papers and documents shall be properly indorsed, so as to indicate their general nature, and the names of the parties thereto shall be filed by the officer receiving the same, stating the time when received, and shall be deposited and kept by him and his successors in office, with his official papers, in some place separate and distinct from such papers.

How indorsed
and kept.

3 R. S. ch. 7, title
3, §§65, 66.
Not to be deliv-
ered out, etc.

§ 1759 The instruments, papers and documents so received and deposited shall not be withdrawn from such office, except on the order of some court of record, for the purpose of being read in evidence in such court, and then to be returned to such office; nor shall they be delivered without such order to any person unless upon the written order of the person or persons who deposited the same, or their executors or administrators. Such instruments, papers, and documents so deposited shall be open to the examination of any person desiring the same, upon payment of the fees allowed by law.

May be exam-
ined publicly.

Id. §§67, 68.
Wills to be
received for
safe keeping.

§ 1760. The register, upon being paid the fees allowed therefor by law, shall receive and deposit in his office any last will or testament which any person shall deliver to him for that purpose and shall give a written receipt therefor to the person depositing the same. Such will shall be inclosed in a seal wrapper, so that the contents thereof cannot be read, and shall have indorsed thereon the name of the testator, his place of residence, and the day, month, and year when delivered; and shall not, on any pre-

Wills to be
sealed up, etc.

text whatever, be opened, examined, or read until delivered to a person entitled to the same as hereinafter directed.

§ 1761. Such will shall be delivered only :

1. To the testator in person ; or,
2. Upon his written order, duly proved by the oath of subscribing witness ; or,
3. After his death, to the persons named in the indorsement on the wrapper of such will, if any such indorsement be made thereon ; or,
4. If there be no such endorsement, to the surrogate of the county.

Id. §69.
To whom to be delivered.

§ 1762. The register shall keep in his office a book, in which shall be entered all fees charged or received by him for official services, the time of rendering the same, the persons, if known to him, for whom the same were rendered, and a brief statement of the nature of the service for which any fee is charged or received. Such books shall be open for inspection without fee or reward, at all times when the office shall be open for the transaction of business.

1844, ch. 125, §§1, 2, Comp. 1445.
Accounts of fees to be kept in a book.
To be open for inspection.

§ 1763. The said register shall, between the first and tenth day of January in every year, make and transmit, free of expense, to the secretary of State, a statement which shall exhibit:

Id. §3.
Statement to be sent to secretary of State.

1. The amount of all fees charged or received by him for recording deeds, mortgages, and other papers, and for certificates of such recording ;

2. The amount of all fees charged or received by him for searching the files and records of his office, and for certificates of such searches ;

3. The amount of all sums charged or received by him for services rendered for the county ;

4. The amount of all sums charged or received by him for all other official services ;

5. The sums paid by him for assistance in the performance of his official duties, and the names of the persons to whom the same were paid, and also the sums paid for fuel, lights, and stationery ; and other expenses incident to his office, with the particular items thereof. Such statement shall embrace the year ending on the thirty-first day of December next preceding the time of making the same. To every such statement, the affidavit of the person making the same, that the facts therein set forth are true, shall be annexed or subjoined ; which affidavit shall be sworn to before some officer authorized to take affidavits to be read in the supreme court.

1844, ch. 125, §5, Comp. 1446.

Id. §4.
Statements to be sworn to.

§ 1764. All mortgages heretofore executed on premises in the city and county of New York to the commissioners for loaning certain moneys of the United States, pursuant to the provisions

1851, ch. 286, §1, Comp. 1458.
Mortgages, where deposited.
1837, ch. 150.

Office of com-
missioners.

Co. Civ. Proc.
§§3304, 3306.
Fees of
register.

of the act authorizing a loan of certain moneys belonging to the United States, deposited with the people of the State of New York for safe keeping, passed April fourth, one thousand eight hundred and thirty-seven, together with the indexes relating thereto, and all mortgages hereafter executed on premises in said city and county, shall be deposited in the office of the register of the city and county of New York, and shall not at any time be removed therefrom unless the same shall have been paid and fully satisfied. The office of the said commissioners mentioned in the forty-first section of said act shall, in the city and county of New York, be kept at the office of the register of the city and county of New York.

§ 1765. The register is entitled to the following fees, for any of the services herein specified :

Recording any instrument which must or may be recorded by him, ten cents for each folio.

Filing a certificate of satisfaction, or other satisfaction piece of a mortgage, and entering such satisfaction, twenty-five cents.

Entering a minute of a mortgage being foreclosed, ten cents.

Filing and entering the bond of a collector or other officer authorized to receive taxes, twelve cents.

Searching for such bond, six cents.

Entering satisfaction thereof, twelve cents.

Filing every paper deposited with him for safekeeping, six cents.

Searching for every such paper on request, three cents for each paper necessarily opened and examined.

Sealing any paper when required, twelve cents.

Every certificate, other than that a paper, for the copying of which he is entitled to a fee, is a copy, twenty-five cents.

For searching and certifying the title to and incumbrances upon real property, for each year for which the search is made, for each name, and each kind of conveyance or lien, five cents.

For a copy of a paper filed in his office, eight cents for each folio.

Title 4—The Coroners and Inquests.

1852, ch. 299, §1.
Comp. 1461.
Four coroners
to be elected.

§ 1766. Four coroners shall hereafter be elected in the city and county of New York in the same manner and at the same general election as sheriffs ; hold their offices for the same term, and be removable in the same manner.

1878, ch. 256,
Comp. 1464.
Salary of
coroners, and
allowance for
expenses.

§ 1767. Each of the coroners shall be paid in full satisfaction for his services a yearly salary of five thousand dollars, and shall be allowed for contingent expenses, including clerk and office hire, and for the preservation of his records and the records of the board of coroners, and all other incidental expenses, a

sum not to exceed three thousand dollars per annum, which contingent and incidental expenses shall be audited and paid as the contingent and incidental expenses of other officers of said city and county are audited and paid; and said salary and allowance shall be in lieu of all his fees or compensation heretofore a charge upon the county of New York or the mayor, aldermen, and commonalty of the city of New York.

§ 1768. The board of coroners may appoint a clerk, who shall receive an annual salary of thirty-five hundred dollars per year which shall be a county charge, and payable as other county salaries are paid.

1871, ch. 462, §6.
Comp. 1462.
Clerk to
coroners.

§ 1769. Each coroner of said city shall, on assuming office, appoint a qualified physician, who shall be a resident in said city, and shall be known as a "coroner's physician." Any vacancy in the office of coroner's physicians shall be filled by the board of coroners. The board of coroners, for cause, may remove the physicians appointed by them.

1878, ch. 256, §3.
Comp. 1464.
Coroners'
physicians.

§ 1770. It shall be the duty of the board of estimate and apportionment, from time to time, as it may determine, to fix the salary to be paid to the physicians appointed as in the preceding section directed, but the salary to be paid to each of said physicians shall not, in any one year, exceed the sum of three thousand dollars. The salaries provided for in the preceding sections of this title, shall be paid monthly by the mayor, aldermen, and commonalty.

Id. §4.
Salary.

§ 1771. It shall be lawful for the several coroners, with the written consent first had and obtained of the district attorney and a justice of the supreme court within said city and county, to employ any scientific expert, engineer, or toxicologist to examine the body of any person who shall have died from alleged criminal violence, or by casualty, or in any suspicious or unusual manner, and as to the cause of whose death the said coroner shall have jurisdiction to inquire.

1873, ch. 630, §1.
Comp. 1462.
Scientific ex-
perts, employ-
ment of, by
coroner.

§ 1772. Upon the certificate of such employment by a coroner, with the written consent of the district attorney and a justice of the supreme court, as aforesaid, being filed with the comptroller of said city, such scientific expert, engineer, or toxicologist shall be entitled to recover and receive as a proper claim against said city, just and reasonable compensation for his services rendered in the matter of such inquest upon the request of said coroner with such written consent as aforesaid. Such just and reasonable compensation shall be ascertained and certified to by the district attorney, justice of the supreme court, and the comptroller of said city; and in case such just and reasonable compensation shall not be so certified and paid, such

Id. §2.
Compensation
of expert.

scientific expert, engineer, or toxicologist shall be entitled to maintain his proper action at law therefor to recover the same.

1871, ch. 462, §1,
as amended
1878, ch. 256, §6,
Comp. 1461.
1878, ch. 256, §2,
Comp. 1464.
Coroner may
subpoena
physician.
6 Daly, 121.

§ 1773. When in the city of New York any person shall die from criminal violence, or by a casualty, or suddenly when in apparent health, or when unattended by a physician, or in prison, or in any suspicious or unusual manner, the coroner shall subpoena one of the coroner's physicians, who shall view the body of such deceased person, externally, or make an autopsy thereon as may be required. It shall be the duty of the physician to whom such subpoena is so issued to make the inspection and autopsy required, and to give evidence in relation thereto at the coroner's inquest. The testimony of such physician, and that of any other witnesses that the coroner may find necessary, shall constitute an inquest.

Testimony
upon inquest.

1871, ch. 462, §2,
Comp. 1461.
Jury, when to
be called.

§ 1774. Should the coroner deem it necessary, he may call a jury to assist him in his investigation, or should any citizen demand that a jury be called, he shall proceed as directed by part four, title seven, article one of the Revised Statutes. Any citizen of this State, not over seventy years of age, and being at the time a resident of the county, may be summoned to serve as a juror upon a coroner's inquest; and any person who shall willfully neglect or refuse to serve as such juror when duly summoned, shall, upon conviction, be adjudged guilty of a misdemeanor, and shall be punished by imprisonment in the county prison not exceeding one year, or by a fine not exceeding five hundred dollars, or by both such fine and imprisonment.

Id. §5,
Comp. 1462.
Liability to
serve on
coroner's jury.

1871, ch. 462, §3,
Comp. 1461.
Deaths from
unusual causes
to be reported.

§ 1775. It shall be the duty of any citizen who may become aware of the death of a person who shall have died in the manner stated in the last section but one, to report such death forthwith to one of the coroners, or to any police officer, and such officer shall, without delay, notify the coroner of such death; and any person who shall willfully neglect or refuse to report such death to the coroner, shall, upon conviction, be adjudged guilty of a misdemeanor, and shall be punished by imprisonment in the county prison not exceeding one year, or by a fine not exceeding five hundred dollars, or by both such fine and imprisonment.

1871, ch. 462, §4.
Penalty for dis-
turbance of dead
body, or remov-
ing clothing,
etc.

§ 1776. Any person, except the coroner, who shall willfully touch, remove, or disturb the body of any one who shall have died in the manner described in the last section but two, or who shall willfully touch, remove, or disturb the clothing, or any article upon or near such body, without an order from the coroner, shall, upon conviction, be adjudged guilty of a misdemeanor, and shall be punished by imprisonment in the county prison not exceeding one year, or by a fine not exceeding five hundred dollars, or by both such fine and imprisonment.

§ 1777. Each of the coroners shall file with the clerk of the board of coroners, in all cases that may come before him, an abstract of the testimony taken by him, and a copy of the verdict rendered by the jury; and the clerk of said board shall keep the same on file until it is turned over to the board of health and a receipt taken therefor, except in the case of a homicide, in which case he shall transmit the same, without delay, to the district attorney of the city and county of New York.

1881, ch. 465, § 2
Coroners to
file abstract of
testimony, etc.

§ 1778. The board of coroners shall direct a book to be kept which shall contain the name, if known, of every deceased person reported, under existing laws, at the office of the board of coroners, or to any of its members, the place where the body was found, and the name of the coroner who assumed charge of the case; also a book which shall contain the name of the deceased, when known, the date when and the place where the inquest was held, the findings in full of the jury, and the date of death; also an index to such books, and to all inquisition papers, which shall contain, in alphabetical order, the names of deceased persons upon whom inquests have been held, the date of the inquests, the cause of death, the name of the coroner holding said inquest, and such other references as may be necessary to enable public officers, or parties interested, to examine fully the records of the coroner's office for legal purposes; and such books and records shall be kept at the office of the board of coroners, except as in the last section otherwise provided, and shall be the property of the mayor, aldermen, and commonalty of the city and county of New York.

Id.
Board of cor-
oners to keep
records of
names, etc., of
deceased per-
sons.

§ 1779. If all the coroners be absent, or be unable, for any cause to attend, their duties so far as they relate to holding inquests and their action thereon and consequent thereupon, may be performed by a police justice, but by no other officer, with the same authority, and subject to the same obligations and penalties as apply to the coroners.

1881, ch. 442, § 789.
Police justices
may perform
duties of cor-
oner, during his
inability.

CHAPTER XXII.

THE COURT OF ARBITRATION.

1874, ch. 278, §6,
Comp. 1373.
Arbitrator, his
appointment.

Salary.
1875, ch. 495, §2,
Comp. 1377.
Arbitrator,
term of office
and removal of.

Official oath.

Id. §3.
Power to ad-
minister oaths,
etc.

1874, ch. 278, §6,
Comp. 1376.

§ 1780. The governor shall nominate and, by and with the consent of the senate, appoint an experienced, suitable, and competent person as arbitrator, to be known as the arbitrator of the chamber of commerce of the State of New York, to have and perform the functions, duties, and powers provided for in this chapter in connection with his said office; and the salary of said arbitrator shall be fixed and paid by the said chamber of commerce. The arbitrator holds office during good behavior, and may be removed by the governor if, upon due notice, and after a hearing, he is found guilty by the governor of malfeasance, misfeasance, or continued non-feasance in office. The expression "official arbitrator," as used in this chapter, refers to the officer designated in this section. In case of the resignation, removal, or death of such official arbitrator, his successor must be nominated and appointed by the governor, with the advice and consent of the senate, and commissioned by the governor. Every such official arbitrator appointed after this chapter takes effect, must file with the secretary of State the constitutional oath of office. Unless he files his oath of office within ten days after his confirmation by the senate, he is deemed to have declined the office.

§ 1781. The official arbitrator has power to administer oaths and affirmation to be used before any court or officer; to take the proof and acknowledgment of any charter party, marine protest, contract, or other written instrument; and to require any witness to appear and testify before him, or the said court of arbitration, or before the board of arbitrators hereinafter provided for in matters pending in said court. He must adopt and promulgate short and simple rules to be observed in proceedings taken as prescribed in this chapter, and he has power to do and order whatever may be necessary to carry out the provisions of this chapter.

§ 1782. The sittings and business of the said arbitrator and board shall be had and conducted, and the office of the said clerk shall be in a building or room provided by the said chamber of commerce at its own proper expense and charges. The salary of said clerk shall be fixed and paid by the chamber of commerce.

§ 1783. Said chamber of commerce shall provide proper and convenient furniture, together with attendants, fuel, lights, and stationery suitable and sufficient for the transaction of the business of said court, and such expenses shall be borne by said chamber at its own proper cost and charges.

1875, ch. 495, §7.
Comp. 1378.
Furniture, etc.

§ 1784. The clerk of the said court of arbitration is known as the arbitration clerk, and holds office during the pleasure of said chamber. In case of his death, resignation, or removal, the said chamber of commerce must elect his successor. The governor must appoint and commission the person so elected; but before such commission can be issued, the person so elected must file in the office of the secretary of State an official oath to the same effect as the constitutional oath of office. Unless he files such oath within ten days after his election, he is deemed to have declined the office. The said chamber of commerce may authorize the arbitration clerk to appoint one or more assistants, and provide for their compensation.

Id. §4.
Comp. 1378.
Clerk.

§ 1785. The arbitration clerk must safely and correctly keep all the minutes, documents, records, books and other papers, and effects of the official arbitrator and of the said court of arbitration, and relating to the arbitration for which this chapter provides. Any person who steals, mutilates, or alters any book, record or paper filed with or kept by the arbitration clerk, is guilty of the same offense and is punishable therefor in the same manner as if such act was committed with respect to a record kept, as prescribed by law, in the office of the clerk of the county of New York.

1875, ch. 495, §5.
Comp. 1378.
Clerk, duties of.

Stealing or
mutilation of
books, etc.

§ 1786. The seal now in use by the official arbitrator shall continue to be the seal of his office and of said court. Any award or order made pursuant to this chapter, or any certified copy thereof, must be authenticated by such seal. If the seal now in use is lost, injured, or destroyed, the official arbitrator must cause a new seal to be made, which shall thereupon become such official seal. In all courts and places any instrument sealed with such seal and signed by the said arbitrator shall be received as prima facie evidence of the existence of such award or order, and of the contents thereof, and shall have the same force and effect as the original thereof.

Id. §8.
Comp. 1378.
Official seal.

1874, ch. 278, §6.
Comp. 1376.

§ 1787. Upon the application of the parties interested, or their representatives, the official arbitrator must interpret or construe any oral or written contract, pertaining to any matter, which might be the subject of arbitration under the provisions of this chapter; and he must, if required by either party, make a written award thereupon.

1875, ch. 495, §9.
Comp. 1378.
Interpretation
of contracts.

§ 1788. The parties to any controversy, dispute, or matter of difference, arising or being within the port of New York, or re-

Id. §10.
Submission of
controversy.

lating to a subject matter situate or coming within that port, as the collection district of that port is established and limited by the act of congress of the United States of America, approved March second, seventeen hundred and ninety-nine, may voluntarily submit the same to the said court of arbitration of the chamber of commerce, by written submission or by personal appearance in said court, and in oral submission as hereinafter mentioned.

Id. §11.
Application or
submission,
how made.

§ 1789. An application to interpret and construe a contract, as prescribed in the last section but one, and a voluntary submission as prescribed in the last section, may be made in either of the following methods:

Immediate
hearing.

1. By filing with the arbitration clerk a written instrument containing such application or submission executed by the parties and acknowledged or proved before the clerk of said court, or before any other officer authorized to take acknowledgment of a deed to be recorded in the county of New York.

2. By the voluntary appearance of the parties before the official arbitrator, which, together with the substance of any oral submission made by them, must be entered in the minutes. Upon making such an application or submission, if both parties request an immediate hearing, the official arbitrator must grant an immediate hearing accordingly, or a speedy hearing where the state of the business before him will allow him to do so. In either case, one member of a firm or partnership, or their attorney in fact, may make such execution, acknowledgement, appearance, or submission for and on behalf of all the members of such firm or partnership.

1875, ch. 495,
§12, Comp. 1379.
Jurisdiction.

§ 1790. The said court of arbitration, in addition to the jurisdiction above conferred, has power to determine, in the manner prescribed in this chapter, any controversy, dispute, or matter of difference, upon any mercantile or commercial subject, where all the parties thereto are regularly elected members of the said chamber. For the purposes of this section it shall be sufficient, where firms or partnerships are concerned, that one co-partner therein is such member of said chamber.

Id. §13.
Requisition to
appear before
the court.

§ 1791. In a case specified in the last section, either party may serve personally upon the adverse party or one of two or more adverse parties, jointly interested in the subject-matter of difference, a written requisition directed to the adverse party or parties, requiring him or them to appear before the court of arbitration of the chamber of commerce of the State of New York, for the settlement of such controversy, dispute, or matter of difference at a place, and on a day and at an hour named in the requisition, not less than two or more than five days after the personal service of the same.

§ 1792. A requisition may be served, and proof of the service thereof may be made in like manner, as where a summons issued out of the supreme court in a civil action is personally served, and proof of said service is made. The requisition shall be filed with the arbitration clerk any time before the expiration of one hour after the same is returnable.

Id. §14.
Comp. 1880.
Requisition.
service of.

§ 1793. Either party to the controversy, dispute, or matter of difference may, at any time before the expiration of one hour after the requisition is returnable, or within such further time as may be allowed by the official arbitrator or prescribed in the rules established by him, appoint, in writing, one person, to sit with the official arbitrator, to hear and determine the matter. If neither party appoints an additional arbitrator as aforesaid, all the parties are deemed to have waived their right to do so; and the matter must be determined by the official arbitrator. If there are two or more parties on the same side, and they appoint different persons or arbitrators, or do not agree on one person, they are regarded as having failed to make any appointment. Upon a failure of a party to appoint an additional arbitrator, where the adverse party has appointed one, the official arbitrator must appoint a disinterested person, not of kin to either party, to sit as a member of the board of arbitration; and the matter must proceed as if the party in default had appointed such person as additional arbitrator. An appointment of an additional arbitrator is not complete unless it is filed with the arbitration clerk.

Id. §15.
Additional ar-
bitrator, ap-
pointment of.

§ 1794. Where the parties to a controversy, dispute, or matter of difference, voluntarily submit the same to the arbitration of the said court of arbitration, either of them may, at the time of filing the written submission or voluntarily appearing to submit the same, or within such time as may be allowed by the official arbitrator, or prescribed by the rules established by him, appoint a person to sit with the official arbitrator, to hear and determine the matter. The mode of so doing, the proceedings to be taken in behalf of the other party, and the consequences of a failure of either or both of them to make such appointment, or of an appointment of different persons by two or more parties on the same side, are the same as prescribed in the last section, in a case where a requisition has been issued.

Id. §16.
Appointment
of person to sit
with arbitrator.

§ 1795. If the additional arbitrator, appointed by either party, fails to appear at the time set for the hearing, without proof of the existence of a good reason for such failure, and that it is of a temporary nature, made by the party appointing him, to the satisfaction of the official arbitrator, his appointment must thereupon be declared to be vacated, and the same party must forthwith appoint another person to act in his place. Upon failure

1875, ch. 495,
§17, Comp. 1880.
Failure of per-
son appointed
to appear.

so to do, or failure of the person so appointed to appear then, or at the time, if any, to which the official arbitrator adjourns the hearing, the official arbitrator must appoint a disinterested person, not of kin to either party, to act in his place.

Id. §18.
Comp. 1381.
Oath of additional arbitrator.

§ 1796. Each of the persons appointed as additional arbitrators, by or for the respective parties, must subscribe and take before the official arbitrators an oath, honestly, truly, and fairly to hear and determine the matters thus submitted to the arbitrators. The oaths so taken must be filed with the award. The official arbitrator need not be sworn in the particular case.

Id. §19.
Board of arbitration, how constituted.

§ 1797. Where additional arbitrators are appointed and sworn, as prescribed in the last four sections, they and the official arbitrator constitute the board of arbitration to determine the controversy, dispute, or other matter of difference, and they must all sit in the matter, and the order, award, and decision of any two of them shall be the judgment of the said court of arbitration.

Id. §20.
Further evidence.

§ 1798. The official arbitrator, or where the hearing is before a board of arbitration, the majority of the board may, after hearing the allegations and testimony of the respective parties, or of those parties who desire to testify, and upon notice to both parties, direct that further evidence be taken if he or they deem further evidence necessary to enable justice to be done between the parties. A witness is entitled to the same fees as in an action in a court of record. A commission to take testimony without the State may be allowed by the official arbitrator, and issued in the same manner and with the same effect as in an action brought in a court of record. The hearing may be from time to time adjourned upon the application of either party and reasonable cause shown to the satisfaction of the official arbitrator, or where the hearing is before a board of arbitration, to the satisfaction of a majority thereof.

Commission to take testimony.

Id. §21.
Award.

§ 1799. Within ten days after the final hearing, the official arbitrator, or the board of arbitration, or majority thereof, as the case requires, must make and file with the arbitration clerk a written award, under his or their hands, stating his or their decision for the settlement of the controversy, dispute, or matter of difference, heard and determined by him or them.

Id. §22.
Rehearing, order directing.

§ 1800. Instead of making an order to fulfill the award, the official arbitrator may, for good cause shown, upon notice to and after hearing the parties, make an order directing that the controversy, dispute, or other matter of difference be heard again, either before the same court or before another board of arbitration appointed as prescribed in this chapter upon the first hearing. But the party applying for such rehearing must give security in such amount and form as shall be approved by the

official arbitrator, for the payment of all the costs and expenses of the other party or parties incident to such rehearing, and for the payment or performance of any award which may be rendered against any party so applying, and of any judgment which may be entered thereon. Upon the rehearing the proceedings must be the same as upon the first hearing, and the provisions of this chapter relating to the first hearing, the award, the order, and the subsequent proceedings thereon, apply similarly to the rehearing.

§ 1801. The final award, the order to enforce the same, and the judgment to be entered thereupon, may be vacated for fraud, collusion, or corruption; but not for any other cause. Unless it is so vacated, the award is binding and conclusive upon all parties thereto, and effects a final settlement of the controversy, dispute or matter of difference submitted or tried as prescribed in this chapter. It must be upheld and sustained accordingly in all the courts of the State.

1875, ch. 495,
§23, Comp. 1381.
Final award,
how vacated.

§ 1802. If the award construes any contract or requires either party or both parties to do or forbear doing a particular act or acts, or to pay a sum of money, the official arbitrator must, at the request of either party, make an order reciting the provisions of the award, and directing the fulfillment thereof by the party or parties required to fulfill the same. The order must, at the instance of either party, be filed in the office of the clerk of the county of New York, who must enter the same, upon being paid his fees therefor. If the order requires the payment of a sum of money, or the delivery of any property, either party may, upon filing the same, require the clerk of said county to enter thereupon a judgment of the said arbitration court against the party or parties required to pay such sum of money, or deliver any property, and in favor of the party or parties to whom it should be paid or delivered. The judgment must be entered and docketed accordingly, in the manner prescribed by law for entering and docketing a judgment of the supreme court in a civil action, and transcripts may be filed with other clerks in like manner as if a judgment in a civil action. Such judgment has the same force and effect as a judgment of the supreme court of similar purport in a civil action, and it must be enforced in the same manner and by the same process and officers, and it may be satisfied of record and discharged in like manner as a judgment of the supreme court in a civil action.

Id. §24,
Comp. 1382.
Order for fulfillment of
award.

Entry of
judgment.

§ 1803. No costs except as hereinafter specified shall be allowed to either party in any proceedings taken as prescribed in this chapter, and except where a rehearing is granted, in which case the official arbitrator may, or, if the rehearing is before a board of arbitration, the board, or a majority thereof,

Id. §25.
Costs.

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may, in the award, require either party to pay the other a fixed sum for his costs and expenses.

Id. §26.
False swearing.

§ 1804. False swearing upon the hearing before the arbitrator, said court of arbitration, or board of arbitration, or, in the course of any proceeding taken as prescribed in this chapter, is willful perjury, in a case where such false swearing would be willful perjury upon the trial of a civil action brought in the supreme court, or in the course of any proceeding taken in such action; and the person guilty thereof may be indicted and punished accordingly.

1875, ch. 495,
§27, Comp. 1382.
Where controversy has been submitted, no action to be brought.

§ 1805. Where any controversy, dispute, or matter of difference, or the interpretation or construction of any contract has been submitted to or brought within the jurisdiction of the said court of arbitration, as prescribed in this chapter, no action or special proceeding relating to the same matter shall be brought in any other court of the State, between the same parties or their representatives or assigns, until after the final award thereupon; and if any such action or special proceeding is pending at the time of the submission, the same must be dismissed or discontinued, or the proceedings therein must be stayed, as the case requires. The official arbitrator, or the board of arbitration, as the case may be, constitute the said court of arbitration.

Id. §28,
Comp. 1383.
Jurisdiction.

§ 1806. Nothing contained in this chapter is to be so construed as to give any jurisdiction to the said court of arbitration of the chamber of commerce of the State of New York, or to the official arbitrator or board of arbitration, except upon the voluntary submission, waiver or election of the parties, or non-attendance pursuant to a requisition, as prescribed in this chapter; or to permit any infant, married woman, or person incapable of managing his affairs by reasons of lunacy, idiocy, unsoundness of mind, or habitual drunkenness, to be brought before the official arbitrator, or the board of arbitration, as a party; or to apply to any matter pertaining to a fee or life tenancy in real property, nor shall any cause or matter submitted to the arbitrator or board, as provided in this chapter, be subject to removal by or to the jurisdiction of any of the courts of this State, except as herein provided; nor shall this chapter apply to any cause or matter which shall be pending in any of the courts of this State, or before any arbitration committee established by law, previous to the service of the summons, as provided in this chapter.

1874, ch. 278, §7,
Comp. 1377.

CHAPTER XXIII.

MECHANICS' LIENS.

Title 1.—Liens against Private Property.

§ 1807. Any person or persons who shall, after the twenty-eighth day of May, eighteen hundred and eighty, either as contractor, sub-contractor, or in any capacity, under or in pursuance of, or in conformity with, any contract, agreement, or employment by the owner, lessee, or person in possession of any land in any of the cities of the State of New York, perform any work, labor, or services, or furnish any materials towards the erection, altering, or repairing of any house, vault, wharf, fence, or any other structure, or in grading, filling in, excavating, or laying walks on any lots of land in the cities of the State of New York, shall, upon filing the notice prescribed in the second section of this act, have a lien for the price or value of such work, labor, services, and materials upon such house, vault, wharf, fence, or other structure, and appurtenances, and the lot upon which said grading or excavating is done, or walk laid, to the extent of the right, title, and interest of the said owner, lessee, or person in possession of said house, vault, wharf, fence or other structure, and appurtenances, and the land upon which the same stand at the time of the filing of the notice of claim in the second section of this act specified, or the successors in interest of such owner, lessee, or person so in possession taking with notice of said lien.

1880, ch. 486, §1.
Persons doing
work, etc., to
have lien.

Notice to be
filed.

§ 1808. The liens provided for in this title shall be preferred to any lien, mortgage, or other incumbrance of which the lienholder had no notice, and which was unrecorded at the time of the filing of the claim referred to in the next section, and said liens shall take precedence over any lien taken by the original contractor; and the liens of laborers, mechanics, or persons furnishing materials to any contractor or sub-contractor shall take precedence over any lien taken by any contractor or sub-contractor indebted to them. Where an owner of land contracts with a builder for the sale of lots and the erection of buildings thereon, and agrees to advance moneys toward the erection of such buildings thereon, and agrees to advance moneys toward the erection of such buildings, the lien hereinbefore authorized shall have priority to all advances made after the filing of said

1875, ch. 379, §1
Comp. 1485,
as amended
1879, ch. 509, §1.
Preferred liens.

1880, ch. 486, §3.
Priority of
liens.

notices of lien. And the lien shall attach to the right, title, and interest of the owner in said building and land to the extent of all advances which shall have become due after the filing of such lien, and shall also attach to and be a lien on the right, title, and interest of the person so agreeing to purchase said land at the time of the filing of said notices of lien.

Id. §2.
When notice to
be filed and
what to con-
tain.

§ 1809. At any time before or within thirty days after the completion of the erection, altering, or repairing of any house, vault, wharf, fence, or structure, or grading, filing in, excavating, or laying walks on any lot of land in the said cities of the State of New York, the persons so performing such work, labor, or services, or furnishing such materials, may file with the clerk of the county where the land or premises are situated, a notice in writing stating his or their residences, the amount of the claim, from whom due, and if not due when it will be due, the person or persons against whom the claim is made, the name of the owner, lessee, or person in possession of the building (against whose interest a lien is claimed); but the failure to state the name of the true owner, lessee, or person in possession, shall not impair the validity of the lien; also a brief description of the buildings or premises sufficient to identify the lands or premises against which the lien is claimed. The said notice of lien shall be verified by the person or persons making the claim, or his or their agent, or any other person, to the effect that the statements therein contained are true, to the best of his or their knowledge, information and belief. Successive liens may be filed for work, labor, services, and materials done and furnished under one contract or employment; but the filing of any such lien or liens shall not entitle the person so filing the same to recover judgment for the amount of such lien or liens unless he shall be entitled to receive payment by the terms of the contract, or agreement, or employment; and in case of sub-contractors, or persons doing work or furnishing materials to contractors, no judgment shall be rendered for any greater amount than the amount which shall be due from the owner to the contractor at the time of the filing of the lien, or which may become due afterward, or which, by the terms of the contract or agreement, shall be due at the time of the rendering of such judgment.

To be verified.

Successive liens
may be filed.

1875, ch. 379, §6,
Comp. 1485.
Claim against
two or more
buildings.

§ 1810. In every case in which one claim is filed against two or more buildings or other improvements owned by the same person, the person filing such claim must at the same time designate the amount due to him on each of such buildings or other improvements, otherwise the lien of such claim shall be postponed to other liens. The lien of such claimant shall not extend beyond the amount designated as against other creditors having liens by judgment, mortgage, or otherwise upon either of such

buildings or other improvements, or upon the land upon which the same are situated.

§ 1811. The county clerk shall enter in a lien docket the name and residence of the claimant, the person against whom claimed, the amount claimed, the date of filing, and a brief description of the premises affected, stating the street and particular place where located, in such manner as to be convenient in searching for the liens by street and block. He shall be entitled to receive a fee of ten cents for each lien filed. Except as provided in section eighteen hundred and eight, the lien shall attach, from the time of the filing of the claim, to all the right, title, and interest which the owner then has in the property therein described, to the extent of the liability of such owner for the claim preferred.

1880, ch. 486, §4.
Lien docket.

1873, ch. 379, §7.
Comp. 1485.
When lien
attaches.

§ 1812. Liens shall in all cases cease after one year from date of filing unless an action shall be commenced, and a notice of lis pendens filed with the clerk of the county wherein the premises are situated, or an order made continuing the lien for another year; in the latter case the county clerk shall, upon filing such order, make a new docket of such lien. Successive orders and new dockets may be made, in the discretion of the court. Where a claimant is made a party defendant to any action brought to enforce any other lien, a notice of the pendency of such action must be filed by him or in his behalf. But the neglect to file such notice shall not abate any action which may be pending to enforce the lien. Such action may be prosecuted to judgment against the persons liable for the debt.

1880, ch. 486, §3.
Liens to cease
at end of year
unless notice of
lis pendens, etc

§ 1813. The liens provided under this act shall be enforced by civil action commenced in any court of record in said city, having equitable jurisdiction, by any persons claimant, the original or sub-contractor, or an assignee thereof, or contractor, against any property affected thereby, at any time within one year from the filing of such lien. Such action shall be commenced, carried on, and judgment entered and enforced as provided in an action to foreclose a mortgage in the Code of Civil Procedure, and the plaintiff shall make all other parties who have filed subsequent liens under this title, or have any prior record, claims, or liens upon said premises and their appurtenances, defendants in such action. And the court shall determine the priority of the liens, the amounts due thereon, and the rights of the respective parties, and render judgment accordingly. The court may also render personal judgment against or in favor of any party to the action. Costs for or against the parties litigant shall be in the discretion of the court. As to all persons against whom no personal claim is made, the plaintiff may, with the summons, serve a notice stating briefly the object of the action, and that

1880, ch. 486, §7.
Civil action to
foreclose lien.

no personal claim is made. But all persons who have filed claims under this title may, by answer in such action, set forth the same.

1875, ch. 379, §12,
Comp. 1486.
Consolidating
actions.

§ 1814. Any number of persons claiming liens upon the same property may join in the same action, and when separate actions are commenced the court in which the first was brought may, on motion, consolidate them.

1880, ch. 486, §8.
Offer to pay
into court.

§ 1815. At any time after the action is commenced the owner of the property affected may, in writing, offer to pay into court any amount stated in the offer, or to execute or deliver any securities or papers which he may describe in discharge of the property. If the offer is accepted in writing within ten days thereafter, the court in which the action is pending may make an order that, on deposit with the county clerk of the amount offered, or the securities or other property described, the lien be discharged, and the money or securities deposited thereafter takes the place of the lien. In case the offer be not accepted within ten days, and the plaintiff fails to recover any more favorable judgment against the property, he shall pay all costs in the action incurred by the owner from the time of the offer.

1875, ch. 379 §14,
Comp. 1486.
Sub-contract-
ors, rights of.

§ 1816. All persons entitled to liens on the structure or improvement, except those who contracted with the owner thereof, shall be deemed sub-contractors; and the court, in the judgment, shall direct the amount due sub-contractors to be paid out of the proceeds of sales before any part of such proceeds are paid to the contractor.

Id. §15.
Different liens.

§ 1817. In every case in which different liens are asserted against property, the court, in the judgment, must declare the rank of each lien or class of liens, and the proceeds of the sale of the property must be applied to each lien or class of liens in the order of its rank.

Id. §16.
Comp. 1487.

When contract
is for bills,
notes, etc.

§ 1818. Whenever by the terms of his contract the owner has stipulated for the delivery of bills, notes, or any other species of property in lieu of money, the judgment must direct that such substitute be delivered or deposited as the court may direct, and the property affected by the liens can only be directed to be sold in default of the owner to deliver such substitutes within such time as may be directed.

1880, ch. 486, §17.
Personal judg-
ment for defi-
ciency.
50 How. 455.

§ 1819. Whenever on the sale of property subject to the lien, there is a deficiency of proceeds, judgment may be docketed for the deficiency against the persons named in the judgment as liable therefor in like manner and with like effect as in actions for the foreclosure of mortgages.

Id. §6.
Lien, how
discharged.

§ 1820. The lien may be discharged as follows:

1. By filing a certificate of the claimant or his successor in interest, acknowledged or proved in the same manner as the satisfaction of a mortgage, stating that the lien is discharged.

2. By depositing with the county clerk, if before suit is commenced, a sum of money equal to the amount claimed; and if suit shall have been commenced, a sum equal to the amount claimed; and such sum in addition as shall be ordered by a judge of the court in which the action shall have been commenced, as security for the costs of the action; such deposit, after suit brought, to be made on notice or on an order to show cause directed to the plaintiff in the action or his attorney.

3. By the expiration of one year after the filing of said lien without any order being made continuing the same or notice of lis pendens filed as aforesaid.

§ 1821. Appeals in actions to enforce liens, provided for in this act, may be taken in the same manner and within the time, and shall be governed by the same rules and practice as prevail in actions for the foreclosure of mortgages.

Id. §9.
Appeals.

§ 1822. Nothing contained in this title shall be construed to impair or affect the right of any person to whom any debt may be due for work done or materials furnished to maintain a personal action to recover such debt against the person liable therefor.

1875, ch. 379, §20,
Comp. 1488.
Personal action
by creditors.

§ 1823. Nothing contained in this title shall be construed to authorize the filing of any claim against any building or property used for public purposes.

Id. §21.
1880, ch. 486, §10.
Property used
for public pur-
poses excepted.

Title 2.—Liens against City.

§ 1824. Any person or persons who shall hereafter, as laborer, mechanic, merchant, or trader, in pursuance of, or in conformity with the terms of any contract made between any person or persons and the city, perform any labor or furnish any material toward the performance or completion of any contract made with the city, on complying with the next section, shall have a lien for the value of such labor or materials, or either, upon the moneys in the control of the city, due or to grow due under said contract with said city to the full value of such claim or demand, and these liens may be filed and become an absolute lien to the full and par value of all such work and materials, to the extent of the amount due or to grow due on said contract, in favor of every person or persons who shall be employed or furnish materials to the person or persons with whom the said contract with the city is made, or the sub-contractors of said person or persons, their assigns or legal representatives, provided that the city shall not be required to pay a greater amount than the contract price or value of the work and the materials furnished, when no specific contract is made in the performance of said work by the contractor.

1878, ch. 315, §1,
Comp. 1489.
Liens for work
or materials
under municipal
contracts.

Id. §2.
Notice of
claims.

§ 1825. At any time before the whole work to be performed by the contractor for the city is completed or accepted by the city, and within thirty days after the same is so completed or accepted, any claimant may file with the head of the department or bureau having charge of said work, and with the comptroller, notices stating the residence of the claimant, verified by his oath or affirmation, stating the amount claimed, from whom due, and if not due, when it will be due, giving the amount of the demand after deducting all just credits and offsets, with the name of the person by whom employed, or to whom materials were furnished; also a statement of the terms, time given, conditions of his contract, and also that the work was done or materials were furnished to the said contractor, and were actually performed or used in the execution and completion of the said contract with said city, but no variance as to the name of the contractor shall affect the validity of the said claim or lien.

Id. §3.
Liens to be
entered.

§ 1826. The comptroller shall enter the claims in a book kept for that purpose by him, called the "lien book." Such entry shall contain the name and residence of claimant, the name of the contractor, the amount and date of the filing and a brief designation of the contract upon which the claim is made.

Id. §4.
Comp. 1490.
Action to fore-
close lien.

§ 1827. No lien provided for in this title shall be binding upon the property therein described unless an action be commenced within ninety days from the filing of the same, and a notice of pendency of said action be filed with the comptroller.

Id. §5.
When lien
attaches.

§ 1828. The lien shall attach from the time of filing thereof to the extent of the liability of the contractor for the claim preferred upon any funds which may be due or to grow due to the said contractor from the city, under the contract against which the lien is filed.

1878, ch. 815, §6.
Comp. 1490.
Enforcing
claim.

§ 1829. Any claimant who has filed the notice mentioned in the second section of this title may enforce his claim against the said fund therein designated and against the person or persons liable for the debt by a civil action. Actions to determine or terminate said liens may be commenced by the said contractor or the city in any court of competent jurisdiction.

Id. §7.
Parties.

§ 1830. The plaintiff must make all parties who have filed claims, the contractor, and the city, parties defendant, and as to all parties against whom no personal claim is made, the plaintiff may with the summons, serve a notice stating briefly the object of action, and that no personal claim is made. But all parties who have filed claims under this title may, by answer in such action, set forth the same, and the court in which the action is brought may decide as to the extent, justice, and priority of the claims of all parties to the action.

§ 1831. The court in which the action is brought shall determine the validity of the lien, the amount due from the debtor to the contractor under his contract, and from the contractor to the respective claimants, and shall render judgment, directing that the city shall pay over to the claimants, for work done and materials furnished in the execution of the said contract or contracts, whose claims or liens it shall hold to be valid and just, in the order of their priority as determined by said court to the extent of the sum found due to said claimants from their contractor, so much of said funds or money which may be due from the city to the contractor under his contract, against which the lien is filed, as will satisfy their liens or claims, with the interest and costs, to the extent of the amount due from the city to said contractor. The judgments rendered under this title may be enforced by execution, and an appeal may be taken therefrom in the same time and manner as in civil actions.

Id. §8.
Judgment in
action to fore-
close.

Execution.

§ 1832. In cases of successive liens, or a number of liens in favor of different persons, their rights and priorities shall be determined as follows: Persons standing in equal degrees as co-laborers, or various persons furnishing materials shall have priority according to the date of the filing of their liens. When several lien notices are filed for the same demand, the judgment shall provide for the proper payments according to priority, so that, under liens filed, double payments shall not be required.

Id. §9.
Successive
liens.

§ 1833. When separate actions are commenced, the court in which the first action was brought may, upon the application of the city, consolidate them.

Id. §10.
Comp. 1491.
Consolidating
actions.

§ 1834. Costs in all actions shall rest in the discretion of the court, and shall be awarded to or against the plaintiff or defendants, or any or either of them, as may be just.

Id. §11.
Costs.

§ 1835. Nothing contained in this title shall be construed to impair or affect the right of any person to whom any debt may be due for work done or materials furnished to maintain a personal action to recover such debt against the person liable therefor.

Id. §12.
Personal
actions.

§ 1836. The lien may be discharged as follows: First—By filing a certificate of the claimant, or his successor in interest, duly acknowledged and proved, stating that the lien is discharged. Second—By lapse of time, when ninety days have elapsed since the filing of the claim, and no action shall have been commenced to enforce the claim. Third—By satisfaction of any judgment that may be rendered in actions to foreclose said liens or claims.

Id. §13.
Discharging
lien.

§ 1837. The term "contractor," as used in this title, shall be construed as meaning the person with whom the contract with the city is made, his assigns or legal representatives.

1878, ch. 315,
§14, Comp. 1491.
Definition.

Id. §15.

1861, ch. 429.
In what cases
act to apply.

§ 1838. Nothing in this title contained shall affect the validity of any claims or liens upon moneys due or to grow due under contracts made by the city prior to the twenty-second day of May, eighteen hundred and seventy-eight, but the title shall apply to and include all cases and contracts under which work and materials have heretofore been, or shall hereafter be done and furnished upon any land, the title of which was, at the time of the making of the contract, and now is in the city, and for the performance of which appropriations have been, or shall hereafter be made and raised by the city; and shall apply to and include actions pending on the twenty-eighth day of May, eighteen hundred and eighty-one, for work done and materials furnished under any such contract.

CHAPTER XXIV.

ELECTIONS.

1872, ch. 675, §1.
as amended
1875, ch. 503, §1.
Comp. 798.
Officers, at
what election
to be chosen.
Notice, clerk of
common coun-
cil to give.

§ 1839. Hereafter all officers to be elected by the people, in the city and county of New York, shall be chosen at the general election held on the Tuesday succeeding the first Monday of November in each year, except in case where special or other elections may be authorized by law. The clerk of the board of aldermen shall, on the first Monday of October in each year, give notice by publication in not exceeding fifteen newspapers of large circulation, published in said city, specifying all the municipal officers (including ward and district officers) to be chosen at the general election in November following—comprising all the city officers voted for by the electors of the city at large—as well as all officers elected by wards or districts in said city; and it shall not be necessary for the secretary of State to include in the general election notice to the sheriff of the county of New York any city or ward officers of the city of New York, nor shall any other notice of the election of such city and ward officers be required, except the notice published by the clerk of the board of aldermen, hereinbefore specified.

1872, ch. 675, §2.
Comp. 798.
Election days
legal holidays.

§ 1840. The days upon which the general or local election shall hereafter be held in the city and county of New York shall, for all purposes whatever, as regards the presenting for payment or acceptance, and of the protesting and giving notice of the dishonor of bills of exchange, bank checks, and promissory notes, be treated and considered as is the first day of the week, commonly called Sunday.

§ 1841. At elections hereafter to be held in the city and county of New York, the boxes to be used in receiving the ballots thereat shall be marked and numbered successively as follows: Number one, "President;" number two, "State;" number three, "Congress;" number four, "Senator;" number five, "Assembly;" number six, "City;" number seven, "Justices;" number eight, "Judiciary." And at every election hereafter to be held in said city and county such number of boxes, marked as aforesaid, shall be furnished, as may be required by law, to receive the ballots to be used at such election. At any election at which any officers are to be voted for upon ballots not otherwise in this section provided for, there shall be provided as many additional boxes as there are additional kinds of ballots required.

1872, ch. 675, §3,
as amended
1873, ch. 823, §1.
Comp. 798.
Ballot boxes,
how labeled
and numbered.
1880, ch. 553, §2.

§ 1842. The ballots for electors of president and vice-president shall be the same as now prescribed by law, and, when folded, shall be indorsed or show on the outside the words "President, number one," and be deposited in box number one. The names of all persons voted for by any elector at any election, in whose election all of the voters of the State have the right alike to participate, except electors of president and vice-president, and chief judge and associate judges of the court of appeals, shall be upon one ballot which, upon the face thereof, shall contain a designation of the offices and the name or names of the person or persons to be voted for, or such of them as any voter may desire to vote for, which ballot shall be indorsed "State," and be deposited in box number two. The name of the person designated for representative in congress shall be on a separate ballot, which, upon the face thereof, shall contain a designation of the office and the district for which the officer is to be elected; and which, when folded, shall be indorsed, or show upon the outside thereof, the words "Congress, number three," and be deposited in box number three. The name of the person designated for senator shall be upon a separate ballot, which, on the face thereof, shall contain a designation of the office, of the district for which the officer is to be elected, and which, when folded, shall be indorsed, or show upon the outside thereof, the words "Senator, number four," and be deposited in box number four. The name of the person designated for member of assembly shall be on a separate ballot, which, upon the face thereof, shall contain a designation of the office and the district for which the officer is to be elected, and which, when folded, shall be indorsed, or show upon the outside thereof, the words "Assembly, number five," and be deposited in box number five. The names of the persons designated for aldermen to be elected by districts shall be on a separate ballot, which, upon the face thereof, shall

1872, ch. 675, §4,
as amended
1873, ch. 823, §2.
Comp. 798.
1880, ch. 553, §1.
Form of ballots.
1880, ch. 553, §1.

contain a designation of the office and the district for which the officers are to be elected, and which, when folded, shall be indorsed, or show on the outside thereof, the words "City, number six," and be deposited in box number six. The names of the persons designated for justice of the district court shall be upon one ballot, which ballot, upon the face thereof, shall contain a designation of the office and the district for which the officers are to be elected, and the name or names of the person or persons to be voted for, or such of them as any voter may desire to vote for, and which, when folded, shall be indorsed, or show upon the outside thereof, the words "Justices, number seven," and be deposited in box number seven. The names of all persons voted for by any elector at any election for chief judge or associate judge of the court of appeals, justices of the supreme court, surrogate, and all other judges or justices, except such as are elected in and for a district which comprises less than the entire county, shall be upon one ballot, which ballot, shall be indorsed "Judiciary," and be deposited in box number eight. The names of the persons voted for by any elector at any election for all city and county officers in whose election all the voters of said city and county have the right alike to participate, except judges or justices as aforesaid, shall be upon one ballot, which ballot shall be indorsed "City and County," and be deposited in box number nine.

1880, ch. 553, §1.

"Judiciary."

"City and county."

1872, ch. 675, §5.
Comp. 796.
Unchanged.
Polls open at 6
A. M. and close
at 4 P. M.
Id. §6.
Elections to be
conducted in
conformity
with general
election laws.

§ 1843. At all elections hereafter held in the city and county of New York, the polls shall be opened at six o'clock in the morning and close at four o'clock in the afternoon.

§ 1844. At every election hereafter held in the city and county of New York, the election and canvass of the votes cast thereat shall be in all respects conducted in conformity to the provisions of the general election laws of this State, except as in this chapter otherwise provided.

1872, ch. 675, §7.
Board of police
to establish bu-
reau of elec-
tions.
To appoint a
chief of the
bureau of
elections.
Term of office
and salary.
Removable for
cause.

§ 1845. It is hereby made the duty of the board of police to continue the bureau in the office of the department of police, known and designated as the bureau of elections. The affairs of said bureau shall, under and subject to such rules, regulations and orders as may from time to time be made and adopted by said board of police, be managed, conducted and carried on by a suitable and proper person, to be chosen and selected by said board, who shall be known as the chief of the bureau of elections, shall hold office for the period of three years, and whose salary shall be fixed and paid by said board, at such sum as they shall deem proper, not exceeding five thousand dollars, and shall be removable by the board of police for cause.

Id. §8.

§ 1846. It shall also be the duty of the board of police to cause to be prepared, books for the registration of names and facts re-

quired by this chapter. Said books to be known by the general name of registers, and to be so arranged as to admit of the entering, under the name of each street or avenue in each election district, and the number of each dwelling in any such street or avenue, if there be a number thereto, and if there be no number, under such other definite description of the location of the dwelling-place as shall enable it to be readily ascertained, found, and located, of the names of all male persons resident in each dwelling in each of said districts who shall apply for registration. Such register shall be ruled in parallel columns, in which, opposite to and against the name of every applicant, shall be entered the words and figures hereinafter provided in this chapter, and shall be of such size as to contain not less than seven hundred names, and so prepared as that they may be used at each election in the city and county of New York, until such time as is in this chapter provided for the succeeding general registration, and shall, on the inside, be in appearance and form as follows, to wit:

Board of police to prepare books for registration of names and facts.
To contain the name of street and No. of each dwelling.
Names of all male persons in dwellings.
Registers, how ruled, and of what size.

When used.

REGISTER OF VOTERS.

RESIDENCE.	Room Number.	Address.	Sworn.	Nativity.	Color.	TERM OF RESIDENCE.			Naturalized.	Date of Papers.	Court.	Qualified voter.	Date of Application.	Why disqualified.	Date of erasing name.	Voted November.	Voted April.	Challenged.	Remarks.
						Assembly District.	County.	State.											
141 East 32d street.		Hill, John H. Stevenson, Benjamin Dennison, William M.	Yes. Yes. Yes.	England Georgia Canada.	White Colored White	6 months. 1 year. 2 months	15 months 1 year 4 years.	6 years. 2 years. 10 years	Yes. Native Yes.	May 17, 1871 Oct. 30, 1868	Superior, N. Y. Supreme, N. Y.	Yes Yes Yes	March 16, 1872 March 15, 1872 March 20, 1872						
143 do	do																		
330 Third avenue																			
332 do	do																		

§ 1847. It shall not be lawful for the said board to alter or change either the number or boundaries of any election district, save in such years as by law the said city and county is redistricted by assembly districts, and in such years as the usual and customary enumeration of citizens in the city and county of New York is had and taken, when as early as the first day of September in any such year a general redistricting of the city shall be made by assembly districts, upon the basis of the registration of voters for that year last preceding the time of such redistricting, in which members of congress shall have been chosen. Such redistricting shall be made in such manner that each election district shall contain as near as practicable two hundred and fifty voters on the basis of such registration. On or before the fifteenth day of August, one thousand eight hundred and eighty-two, and in every second year thereafter, said board of police may divide such election districts, and such only as by the registration of voters of the two preceding years shall be found to have had an average registration of more than four hundred voters. But in any such division of any such district, one portion of the district shall retain the original numerical designation, and the other portion shall take the number following the highest numbered district in the assembly district of which it forms a part. No election district shall be in part within two congressional districts.

1872, ch. 673, §9,
as amended
1874, ch. 621, §1.
Comp. 861.
Redistricting.

§ 1848. It shall be the duty of the chief of the bureau of elections to receive, file, and preserve in his office all resolutions, orders, rules, and regulations of said board of police, pertaining to or in any wise affecting the conduct of the affairs of his bureau; to prepare and furnish all necessary registers, books, maps, forms, oaths, certificates, blanks, and instructions for the use of the inspectors of election and the board of county canvassers; to provide for the furnishing of such officers therewith and with all necessary supplies; to have and retain the custody of all registers and copies thereof provided for in this chapter, all oaths of office and of removal, and all records, papers, and certificates of every kind and nature pertaining to the affairs of his bureau, the conduct of any registration of electors, revision thereof, or of any election; and to have charge of the fitting up of all polling places. The said chief shall, for any revision of any general registration, issue to each of the inspectors of election, in each election district in the city and county of New York, one of the registers of said district in use therein at the preceding election, and returned to and filed by him in his office.

1872, ch. 673, §10,
Comp. 802.
Chief of bureau
of elections to
keep certain
papers and pre-
pare and fur-
nish books and
stationery, etc

To have custo-
dy of, and keep
all records, pa-
pers, etc.

To issue regis-
ters in certain
cases.

§ 1849. The chief of the bureau of elections shall have the right, subject to the approval of the board of police, to appoint a chief clerk, who shall receive a salary not exceeding two thou-

Id. §11.
To appoint a
chief clerk.
Salary.

Board to furnish other clerical force from among patrolmen.

Id. §13.
Inspectors of elections and poll-clerks appointed, etc., by board of police. See 62 N. Y. 239; 8 Hun. 222, 5 T. & C. 678; 67 How. 445.
Four inspectors to each district, two of each party.
Commissioners of police of minority party to name inspectors for each district.
Qualifications.

Manner of appointment.

Oath of office.

Certificate of appointment.

Form of.

sand dollars per annum. Such other clerical assistance as, in the judgment of said board, shall be necessary and proper for the faithful performance by the bureau of elections of the duties in this chapter imposed, shall be furnished by said board by detail from among the patrolmen under its command.

§ 1850. All inspectors of election and poll-clerks in the city and county of New York shall hereafter be selected and appointed by the board of police, who shall also have power to make all necessary removals and transfers, and fill all vacancies which may, from any cause, arise. It shall be the duty of the said board of police annually in the months of August and September in each succeeding year, for each election district in said city and county, to select to serve as inspectors of election, four persons (two of whom, on State issues, shall be of different political faith and opinions from their associates, and those appointed to represent the party in political minority on State issues in the said city and county, to be named solely by such commissioner, or such of the commissioners of police in said board as are the representatives of such political minority), who shall be citizens of the United States and of the State of New York, of good character, and able to read, write, and speak the English language understandingly, qualified voters in said city and county, and not candidates for any office to be voted for by the electors of the district for which they shall be selected; but no person shall be required to be a resident or voter in the election district for which he shall be appointed an inspector. The person so selected shall be notified, examined as to their qualifications, and if approved, shall each take and subscribe before the chief of the bureau of elections or the chief clerk thereof, within twenty days from the date of notice of appointment, the following oath of office:

"I, _____ residing at No. _____ in the city of New York, do solemnly swear (or affirm) that I will support the constitution of the United States and of the State of New York; and that I will faithfully discharge the duties of the office of inspector of elections for the _____ election district of the _____ assembly district of the city of New York, according to the best of my ability; and that I am a citizen of the United States and of the State of New York, a qualified voter in the city and county of New York, and not a candidate for any office to be voted for by the electors of the district for which I am appointed an inspector."

Whoever shall be nominated, approved, and sworn into office as an inspector of election, shall receive a certificate of appointment from the board of police, said certificate to be in such form as shall be prescribed by the said board, and to specify the assem-

bly and election districts in and for which the person to whom the same is issued is appointed to serve, and the date of expiration of his term of office. The inspectors of election, appointed under the provisions of this chapter, shall hold office for one year, unless sooner removed for want of the requisite qualifications, or for cause, in either of which cases such removal, unless made while the inspector is actually on duty on a day of registration, revision of registration, or election, and for improper conduct as an election officer, shall only be made after notice in writing to the officer sought to be removed, which notice shall set forth clearly and distinctly the reasons for his removal. Provided that any inspector of election who shall at any time be appointed to fill a vacancy, which fact shall be stated in his certificate of appointment, shall hold office only during the unexpired term of his predecessor; and that no inspector of election or poll-clerk shall be transferred from one election district to another after he has entered upon the performance of his duties.

Term of office.

Removals from office; manner of proceedings

To hold only during unexpired term. No inspector or poll-clerk to be transferred.

§ 1851. Any person applying to register or offering to vote, or who is registered, may, on any day of any general registration, revision of registration or of election, be challenged by any qualified voter in the city and county of New York, and either of the inspectors of election, in any election district in said city and county, may, at any authorized meeting of the board, and one of them shall administer to any person so challenged the oath or oaths provided by law to test the qualification of challenged electors; and either of said inspectors may, at any such meeting, administer to any applicant for registration the oath or oaths provided in this chapter to be administered to and taken by any such applicant, and may also administer to any elector of the election district who may be offered as a witness to prove the qualification of any person claiming the right to be registered or to vote, the following oath: "You do swear or affirm that you are an elector of this election district, that you will fully and truly answer all such questions as shall be put to you touching the place of residence and other qualifications as an elector of the person (name to be given) now claiming the right to be registered as a voter in this district."

1875, ch. 672, § 14. Comp. 893.

Applicant for registration may be challenged.

In such case oath to be administered.

Also to witnesses.

Form of oath.

§ 1852. Two persons of different political faith and opinions on State issues, and possessing the other qualifications required by this act of inspectors of election, shall be, in all respects, similarly named, selected, notified, examined, appointed, commissioned, and sworn as poll-clerks in and for each election district in the city and county of New York. They shall hold office for the same period of time and upon the same conditions as are

1872, ch. 673, § 13. Comp. 804.

Poll-clerks, how appointed.

Term of office of.

above prescribed for inspectors of election, and shall receive a like certificate of appointment.

Id. §16.
Vacancies in
office of inspec-
tors and poll-
clerks, how
filled.

§ 1853. Whenever, from any cause, there shall exist a vacancy in the office of inspector of election or poll-clerk, the person appointed to fill such vacancy shall be named by such commissioner, or such of the commissioners of said board of police or his successors or their successors, as named the inspector or poll-clerk in whose place any such person is designated.

Id. §17,
as amended
1873, ch. 823, §3.
Compensation
of inspectors
and poll-clerks.

§ 1854. Inspectors of election and poll-clerks appointed in pursuance of the provisions of this chapter shall each be entitled to receive seven dollars and fifty cents per day for each day's service at any registration, revision of any registration or election, which compensation shall be paid on the certificate of the chief of the bureau of elections as to the period of service; but no payment shall be made to any person as an inspector of election or poll-clerk who shall not have taken, subscribed, and filed the oath or affirmation required herein, and who shall not, during the period of his service, have fully complied with all the requirements of law in any wise relating to his duties, and the acting of any such person, in either of said capacities, without having taken, subscribed, and filed the said oath or affirmation, shall be deemed to be, and punished as a misdemeanor. Inspectors of election and poll-clerks, during the time they shall hold such office, shall be exempt from the performance of military and jury duty.

Id. §18.
Persons noti-
fied of appoint-
ment must
appear before
chief of bureau
of elections.

§ 1855. Each and every person selected and notified by the board of police as its choice for the office of inspector of election, shall, on the receipt of notice thereof, appear within ten days thereafter, before the chief of the bureau of elections, for the purpose of examination, and, if found qualified, shall, unless excused by said board, by reason of ill-health, or other good and sufficient cause, be bound to serve as such officer at every election for the term of one year from the date of his appointment, and in case of neglect or refusal to comply with the above requirements, or to serve or act, shall be liable to a penalty of one hundred dollars, recoverable by the said board by civil action, in any court of record, in the name of the treasurer of the board, and for the use and benefit of the police fund; and a failure on the part of any such person to present himself for examination, or to comply with any of the requirements of this chapter preliminary to receiving his certificate of appointment within the time prescribed, or to attend on the day of any registration or revision of registration, or the day of any election during said term, unless prevented by sickness or other sufficient cause, the burden of proof of which shall be upon the delinquent, shall be deemed a refusal within the meaning of this section.

To serve unless
excused.

Penalty for
refusing.

Failure to per-
form duties
deemed a
refusal.

§ 1856. The inspectors of election in each election district in the city and county of New York, while discharging any of the duties imposed upon them by this chapter, shall have full authority to preserve order and enforce obedience to their lawful commands at and around the place of registration, revision of registration, or election, during the time of any registration, revision of registration, election, or canvass, estimate, or return of votes; to keep the access to such place open and unobstructed; to prevent and suppress riots, tumults, violence, disorder, and all other improper practices, tending to the intimidation or obstruction of voters, the disturbance or interruption of the work of registration, revision of registration, or voting, or the canvass, estimate, or return of votes, and to protect the voters, challengers, and persons designated to watch the canvass of any ballots, from intimidation or violence, and the registers, poll-books, boxes, and ballots from violence and fraud; and to appoint or deputize, if necessary, one or more electors to communicate their orders and directions, and to assist in the enforcement thereof.

1872, ch. 675, § 19.
Comp. 805.
Inspectors to preserve order, etc., at places of registration and polls of election.

Suppress riots.

Protect voters and challengers.

May appoint electors to assist.

§ 1857. Hereafter there shall, in the city and county of New York, be a general registration of the qualified voters resident in each election district in said city and county at the times hereinbelow provided, and then only: On Tuesday four weeks, the Wednesday of the third week, and the Friday and Saturday of the second week preceding the day of the November election, in each year. For each and every election held in the city and county of New York, other than such as above designated in this section, there shall be a revision of the general registration had, as provided in this chapter, which revision shall be made on the Friday and Saturday of the second week preceding the day of each and every such election.

Id. § 20.
Future general registrations to be had.

On what days.
Temporary provisions omitted.

Revisions of registration for other elections.

§ 1858. The inspectors of election appointed pursuant to the provisions of this chapter shall, at the times in this chapter designated for a general registration, meet in their respective election districts, at the places which, as provided in this chapter, shall be designated therein for such meetings, and at such times in each election district the said inspectors of election shall openly and publicly do and perform the following acts, viz.:

Id. 21.
Inspectors of election shall meet.

1. They shall organize, as a board, by selecting one of their number to act as chairman: but in case of failure to so organize within fifteen minutes after the time fixed for the meeting, the chairman shall be selected by lot.

How to organize.

2. They shall receive the applications for registration of such male residents of their several election districts as then are, or on the day of election next following the day of making such applications, would be, entitled to vote therein, and who shall personally present themselves, and such only.

Receive applications for registration from persons who personally apply.

Remain in session from 8 A. M. to 9 P. M.

Form of oath.

Examine each applicant.

Enter in register name and No. of street.

Proceedings if more than one family in a house.

To enter No. of room or rooms occupied. Name of applicant, how entered.

Nativity.

Color.

Term of residence.

Naturalization, how designated, date of.

3. They shall remain in session on each of said days, between the hours of eight o'clock in the morning and nine o'clock in evening, and shall administer, to all persons who personally apply to register, the following oath or affirmation, viz.: "You do solemnly swear (or affirm) that you will fully and truly answer all such questions as shall be put to you, touching your place of residence, name, place of birth, your qualifications as an elector, and your right as such to register and vote under the laws of this State."

4. They shall then examine each applicant as to his qualifications as an elector, and, unless otherwise provided herein, shall immediately, and in the presence of the applicant, enter in the registers to be made and furnished as provided in this chapter, the statements and acts below set forth, and in the manner following, viz.: First. Under the column "residence," the name and number of the street, avenue, or other location of the dwelling, if there be a number, but if there shall not be a number, such clear and definite description of the place of said dwelling as shall enable it to be readily ascertained, fixed, and determined; and if there shall be more than one house at the number given by the applicant as his place of residence, in which house he resides, and if there be more than one family residing in said house, either the floor on which he resides, every floor below the level of the ground being designated as the basement, the first floor on or above such level as the first floor, and each floor above that as the second, or such other floor as it may be, or the number or location of the room or rooms occupied by the applicant and whether front or rear. Second. Under the column "address," the name of the applicant, giving the surname and Christian name in full; but the names of all persons residing in the same dwelling to follow each other, and to be under the street and house number, or other description, as provided of the dwelling. Third. Under the column of "sworn," the word "yes" or "no," as the fact shall be. Fourth. Under the column of "nativity," the State, country, kingdom, empire, or dominion as the fact shall be stated by the applicant. Fifth. Under the column of "color," the words "white" or "colored," as the fact shall be. Sixth. Under the subdivisions of the general column of "term of residence," the periods by months or years stated by the applicant, in response to the inquiries made for the purpose of ascertaining his qualification and filling such column. Seventh. Under the column of "naturalized," the words "yes" or "no," or "native," as the fact shall be stated. Eighth. Under the column of "date of papers," the date of naturalization, if naturalized, as the same shall appear by the

evidence of citizenship submitted or presented by the applicant in compliance with the requirements of this chapter. Ninth. Under the column of "court," the designation of the court in which, if naturalized, such naturalization was done, as the same shall appear by the evidence of citizenship submitted or presented by the applicant in compliance with the requirements of this chapter. Tenth. Under the column of "qualified voter," the words "yes" or "no," as the fact shall appear and be determined by at least three of the board of inspectors of election, it being however, required of them to designate as a qualified voter any male person who, being otherwise qualified, shall not at the time of making the application be of age, provided the time when such applicant shall be of the age of twenty-one shall be subsequent to the date of his making application, and not later than the day of the election immediately following such time of applying. Eleventh. Under the column of "date of application," the month, day, and year when the applicant presented himself and was adjudged a qualified voter in the election district.

By which court.

Qualification and disqualifications, how designated.

Case of minors coming of age before election day.

Date of application, how entered.

§ 1859. On the days and at the times in this chapter designated for any revision of any general registration, the duly qualified inspectors of elections shall meet in their respective election districts, at the places which, in accordance with the requirements of this chapter, shall have been provided for such meetings, and shall openly and publicly do and perform the following acts, namely: Each and every of the duties and requirements set forth in subdivisions one and three of section eighteen hundred and fifty-eight of this act. They shall in each election district receive the applications for registration of such male residents of the election district, whose names are not then borne upon the registers thereof, as qualified voters therein, as shall personally present themselves, and who, on the day of election next ensuing, would be entitled to vote therein, and as to all applications made to them shall proceed therewith in the manner provided in subdivision four of section eighteen hundred and fifty-eight of this act, provided that if, upon the examination, as in this chapter provided for, of any applicant for registration, it shall appear that he has, since the last day of any general registration of voters or revision thereof, in the said city and county of New York, moved into or become a resident of said election district, the said inspectors shall inquire from where such applicant removed or came from; and if it shall appear that such removal was from a place within the said city and county, they shall inquire if, in the election district in which he resided at the time of the last preceding general registration (naming such time), or in which he has resided at any

1872, ch. 675, § 22, Comp. 807.

Inspectors to meet for revision of registers and receive the application of persons whose names are not on the registers, who on next election day would be voters in the district.

Proceedings if applicant has moved into the district since last registration day.

Conditions to
be complied
with.

Certificate of
removal, effect
of.

1872, ch. 673, § 23,
Comp. 808.
Persons remov-
ing from one
dwelling to
another to per-
sonally apply
to the board of
inspectors.

time subsequent thereto, he has been registered, or has applied for registration; and if he shall swear that he has not, then the said inspectors shall proceed with said application as with that of any other person who may apply to them; but if he shall swear that he has been so registered, the said inspectors shall, before further proceeding, require him to present to them a certificate of removal, as provided for in this chapter, so that his name shall not be upon the registers of two election districts; and upon the presentation to any board of inspectors of any certificate of removal, the said board shall treat the person presenting the same in the manner provided in subdivision four of section eighteen hundred and fifty-eight of this act, for applicants for registration.

§ 1860. Any person who shall at any time, as provided in this chapter, have personally applied to the inspectors of election in any election district of the city and county of New York for registration, and shall have in the registers thereof been entered as a qualified voter, and who shall at any time prior to the close of any general registration, or revision of registration, have removed from the dwelling-place under which he shall, as a resident, be borne upon the registers, may, upon any day provided in this chapter for meetings of the inspectors of election, other than the day of any election, personally appear before the said inspectors in the election district in which he resided at the time his name was entered upon the said registers, during the hours in this chapter provided for their sessions, and publicly take and subscribe, before one of said inspectors, the following oath or affirmation, which shall be known as an oath of removal:

Form of oath.

"I, _____ residing at number _____ in the _____ election district of the _____ assembly district of the city and county of New York, do solemnly swear (or affirm) that I am duly entered in the _____ registers of said election district, from said residence as a qualified voter, and that I have removed my place of residence to number _____ in the _____ election district of the _____ assembly district of said city and county, and I do hereby request that the proper entries and records be made as the same are provided for by law, and that a certificate of removal be furnished me at this time."

Oath to be filed
in the bureau
of elections.

Case to be
examined.

Upon such oath or affirmation being made and subscribed as herein provided, it shall be the duty of the said inspectors to carefully preserve the same, and file within twenty-four hours after the close of any general registration, or revision of registration, in the bureau of elections. And upon any such person so taking and subscribing said oath of removal, the said inspec-

tors of election, if satisfied of the identity of the person making the same with the person he claims to be, as the description of said last-mentioned person shall appear on the registers, and if not satisfied therewith, shall at once, by a police officer present, or by any one whom said board shall especially authorize, make an examination and inquiry at the place of residence of said person, as the same shall be entered upon the registers as to the fact of the removal of such person from said dwelling-place, when if his removal therefrom shall be found by the report of such person to be a fact, shall immediately proceed to strike from said registers the name of such person by entering in each of the registers, opposite to and against the name of any such person, and in the column headed "why disqualified," the word "removed;" in the column headed "date of erasing name," the month, day and year of such striking from said registers such name; and in the column headed "remarks," the words "transferred to," together with the number of the election and assembly districts to which such person shall, in his oath of removal, state he has removed, and the initial letters of the name of the inspector who shall in each of said registers make such entries; and shall, through the name of any such person, as the same shall appear on said registers, and there only, draw a line as indicative that such name is erased from the registers of that election district, and the name of any such person so found stricken and erased from said registers, shall, as to his name and residence at the place in said registers entered under the column of "residence," be thereafter considered by the bureau of elections, all inspectors of election, and all other election officers to be stricken from the registers of that election district, and shall be treated as if never entered thereon. If the dwelling place to which any such person shall have removed, be within the boundaries of the same election district as was his former residence, as stated in the registers of said election district, the said inspectors shall in said registers, under the number or other description of the dwelling-place to which such person has removed, enter his name, and in the several columns opposite and against the same, such words and figures, as prior to the striking from or erasing of the name of such person in the manner in this section above provided, were in the column similarly headed and opposite to and against the name of each person as upon said registers, it appeared under the dwelling-place from which he shall have declared he has removed; and if the dwelling-place to which any such person shall have removed, shall be within the boundaries of any other election district than was the residence, under which he was previously entered on said registers, the said inspectors of election shall fill up, sign, and deliver to

In case of removal within same district entries to be made.

Re-entry of the name in same district register.

In case of removal out of the district into another, inspectors of former district to issue certificate of removal.

such person a certificate, which shall be known as a certificate of removal, and shall be in the words and figures following, to wit:

“CERTIFICATE OF REMOVAL.

Form of
certificate.

“Polling place of the election district,
assembly district city of New
York, 18 To the board of inspectors
of election, election district,
assembly district.

“This is to certify that the name of
heretofore residing at
in this election district, has been by us, the
inspectors of election in this district, stricken from the registers
of this district and the proper erasures made upon the oath of
removal, and at the request of said above-mentioned person; and
that upon the registers of this election district were entered as to
him the following statements:

Name	Residence
Sworn	Nativity
Color	Term of residence
Assembly district	County
State	Naturalized
Date of papers	Court
Qualified voters	Date of application

.....
.....
.....
.....”

1872, ch. 675, §24,
Comp. 810.

Inspectors of
election to en-
ter in “public
copy” and
“election bu-
reau copy” of
register all en-
tries of that
day.

Books of regis-
ter to be com-
pared each day.

§ 1861. The inspectors of election in each election district shall, on each day of any general registration, before adjourning, enter in each of two books prepared for that purpose, one of which shall be known as a public copy of the registers, and the other of which shall be known as the election bureau copy of the registers, all such names and residences, and all such data, information, and statements as during the day have been entered by the inspectors of election in the registers provided in this chapter. And the whole six books shall, on each of said days, after the completion of such copies of the registers, be carefully compared throughout, so that each of the registers and the copies thereof shall, in every respect, agree with each other, and contain the name and residence of each person who shall have applied for registration, and the facts respecting him, as the same shall have been stated by him and entered in the registers, as provided in this chapter. The said inspectors shall, on the last day of any general registration,

certify each of said copies in the same manner as if it were an original, and within forty-eight hours after their adjournment on said last day of any such general registration shall file the election bureau copy of the registers with the chief of the bureau of elections at his office, where the same shall be carefully preserved. And the said inspectors shall, on the last day of any revision of registration, before adjourning, make a copy of the registers as they shall then be made up for the election next ensuing, which copy shall be marked and known as a public copy, and shall be certified as a copy of the original registers as then existing for the election next ensuing; and they shall also make, fill, and certify, in blanks to be prepared and furnished for that purpose, the name and all such other particulars as shall be entered against or opposite to the name of any person which, having been once entered upon their registers, shall have been, on the days of any such revision of registration, for any reason stricken therefrom, as provided in this chapter, together with the name and all such other particulars as shall be entered against or opposite to the name of any person who shall, on any such day of revision, have been added by them to the said registers; and said blanks so filled up and certified, shall, within forty-eight hours after the close of any revision of registration, be left by one of said inspectors at the bureau of elections; and it shall be the duty of the chief of the bureau of elections to immediately enter, or cause to be entered, in the election bureau copy of the registers of each election district, on file in his office, all the proper and necessary entries requisite to make said copy conform to said registers, and be always a copy thereof.

§ 1862. The inspectors of election in each election district in said city and county of New York on each day of any general registration, or revision of registration, and before adjourning, shall, on each of the registers, and on each copy or copies thereof, as in this chapter it is provided shall on each of said days be made or kept, draw in ink immediately below the last name entered underneath each dwelling place and below the last written words and figures entered opposite to or against such last name in each column, save that of residence, a heavy line as indicative of the fact that the entering of names on the said registers for the day mentioned in the column headed "date of application," and opposite to or against the name of the last person entered under any dwelling place, there ceased.

§ 1863. The inspectors of election in each election district in the city and county of New York, shall, in a place to be provided therefor on each of the registers required in this chapter, fill up, date, and each sign with his name and place of residence the appropriate and proper certificate, which shall be either printed

Each copy to be certified and "election bureau copy" filed.

On last day of revision, copies of registers to be made, to be marked "public copy," and certified.

Also certify blanks containing names, etc. of persons stricken from or added to registers.

To be left at bureau of elections.

Entries to be made in "bureau copy of registers."

1872, ch. 675, §25, Comp. 811. Registers at close of each registration day to be ruled off after the last name entered to prevent false entries.

Id. §26. Inspectors to make certificates.

Form of
general
registration.

or written, and for a general registration shall be in the words and figures following, to wit: "We, the undersigned inspectors of election, in the election district of the assembly district of the city and county of New York, do jointly and severally certify that at the general registration of voters held in the said election district, on the days of and the days of in the year there were registered by us as qualified voters in the said election district, the names which in this book are entered as of said days, and that the number of such registered qualified voters was and is

"Dated New York, , 18 .
.....
.....
.....
....."

Form of
revision of
registers.

And for a revision of any general registration, said certificate shall be in the words and figures following, to wit: "We, the undersigned inspectors of elections, in the election district of the assembly district of the city and county of New York, do jointly and severally certify that at the revision of the last general registration of voters held in said election district, on the days of in the year of , there were by us added to the registered qualified voters of said election district, the names which in the registers are so entered as of the said days, and that such number was and is , and that there were stricken from the registered qualified voters of said election district, the names which in the register appear on said days to have been stricken off and erased in the manner prescribed by law, and that such number was and is , leaving the total number of registered qualified voters in said election district for the next ensuing election , which is the number of names now borne in this book as such qualified voters for such election.

"Dated New York, , 18 .
.....
.....
.....
....."

1872, ch. 675
Comp. 812

§ 1864. The inspectors of election in each election district in the city and county of New York shall, after making and signing either of the aforesaid certificates, retain and carefully pre-

serve all the said registers provided for in this chapter—each inspector retaining the book which he made, or of which he had the custody and care on the days of any registration, or revision of registration—for their use on the day of the next ensuing election. The public copy of the registers they shall, at the close of their proceedings on each day of any general registration, and upon the determination of their proceedings on the last day of any revision of registration, leave suspended in the place where such registration or revision of registration was conducted, where it shall be and remain until the next meeting of the said inspectors, whether such meeting be for the purpose of registration, revision of registration, or election, to the end that the same may be inspected and copied by any elector in said city and county. But on the day of any election the said inspectors shall take possession of said public copy, and the chairman shall closely retain the same throughout the said day, returning it to the chief of the bureau of elections, as provided in this chapter, for the return of the registry kept by him, and with said register; and said copy shall be by the said chief of the bureau of elections retained and preserved and filed in said bureau.

Inspectors to retain each a copy of register for use on election day.

Public copy of register, when and how to be suspended.

How disposed of.

§ 1865. It shall be the duty of the inspectors of election in each election district, on each day of general registration or revision of registration, and before adjourning, to copy from the registers the names and residences of all persons registered upon that day, so that the names of those persons having the same residence shall appear together in the form and manner following, namely:

1881, ch. 706, §§1, 3, 4. Inspectors, duties of, to copy names, etc.

List of voters registered in the election district, of the assembly district, of the city and county of New York, on the day of , eighteen hundred and

Forms.

Residence.	Name.
141 East 32d street.....	Hill, John H.
" " "	Stevenson, Benj. K.
" " "	Denison, Wm. M.
143 " "	Harrison, George E.
" " "	Williams, James S.

And they shall append thereto a certificate signed by each of them, in the words and figures following, namely: "We, the undersigned inspectors of election, in the election district, of the assembly district, of the city and county of New York, do jointly and severally certify that the list here-

Certificate, form of.

unto annexed is a true and correct copy of the names and residences, upon the registers, of all persons who have been registered by us as qualified voters in the said election district, this day of _____, in the year _____

.....

"

To be delivered
to captain of
police.

Captain to de-
liver same to
supervisor of
City Record.

Penalty for
violation of
this act.

1872, ch. 675, § 28.
Registers to be
used on elec-
tion day.
No vote to be
received unless
name found on
3 registers.

At the polls
the name of
each voter to be
announced.

No vote to be
received until
3 inspectors
find the name
on registers.
etc.

If vote is re-
ceived, 3 inspec-
tors shall mark
the names on
the registers.

And it shall be the duty of the chairman of the board of inspectors of election, in each election district, to deliver such list, copy, and certificate, prepared in the manner herein prescribed, immediately upon the completion thereof, to the captain of the police precinct in which the election district is situated; and it shall be the duty of such captain to deliver the same, without delay, and within twelve hours after the close of each day of general registration or revision of registration, to the supervisor of the City Record. It shall be the duty of the chief of the bureau of elections to prepare and furnish to the inspectors of elections in each election district the necessary blanks and forms as prescribed in this section. Any inspector of election who shall neglect or refuse to comply with the requirements of this section, shall be liable to a penalty of one hundred dollars, recoverable by the board of police by civil action, in any court of record, in the name of the treasurer of the board, and for the use and benefit of the police fund.

§ 1866. The inspectors of election in each election district of the city and county of New York, shall, on the day of any election therein, have with them at the polling-place in said district the registers provided for in this chapter. They shall each make use of one of said registers for guidance on said day, and no vote shall be received from any person whose name shall not be found by at least three of them to be upon at least three of the said registers as a qualified voter. The chairman of said inspectors in each election district shall, if present, and if absent, then one of the other inspectors shall, upon any person offering to vote, announce in a loud, clear, and distinct manner the name of such person, and no ballots shall be received by either of the inspectors, or deposited in any of the ballot-boxes until at least three of the said inspectors shall, as hereinabove provided, have examined and found the name and residence of such person and have declared the same, and that such person is entered as a qualified voter; when, if the vote of said person is received, at least three of the inspectors shall write in the appropriate column bearing the heading "voted," and opposite to the name and residence of such person, the

word "yes." It shall be the duty of each of the inspectors to note on the register in his possession, in a suitable and separate part thereof, the name and residence of each and every person, if any, whose vote shall be received in contravention of the provisions of this section, and the name of the inspector or inspectors, if any, who shall so receive or deposit in the ballot boxes, or either of them, any such vote; and it shall further be the duty of each of the inspectors, immediately on the close of the polls on the day of election, to compare the said registers as kept by them, as herein provided, and attach to them a certificate in writing that the same are correctly checked, and within twenty-four hours after the completion of the canvass of the votes cast in the election district in which they served, to leave said registers at the office of the chief of the bureau of elections, whose duty it shall be to file and preserve the same, as provided in this chapter. And in no election district in the said city and county shall any inspector, who has custody or charge of either of the registers in this chapter provided for, ever permit said register to leave his possession from the time of receiving custody of the same until he shall file the same, as provided in this chapter, save in the event of his resignation or removal, and the appointment as provided in this chapter of his successor, when he shall promptly surrender and turn over the same to him.

Inspectors to note votes received in contravention of this section, and names of the inspectors.

Registers to be compared on close of polls, certified and left at bureau of elections.

No inspector to part with possession of registers until filed or delivered to successor.

§ 1867. The chief of the bureau of elections shall, from time to time, and at all times, have full power and authority to make or cause to be made, such full, complete, and accurate copies as he shall deem necessary, of the records of the names, residences, age, date, and cause of death of each male person who shall die in the city and county of New York, as the facts in respect to such death shall be furnished to, or the said records shall be kept by, the register of records, in the department of police, or board of health in the city of New York, and shall keep, preserve, and file in his office all such copies of said record.

1872, ch. 673, § 29. Comp. 8:3. Chief of election bureau to copy and keep records of deaths of voters.

§ 1868. It shall be the duty of the chief of the bureau of elections, from time to time, as he shall obtain the names and facts as to death provided in the preceding section, to so arrange the names of all male persons twenty-one years of age and upward, who, by his records, appeared to have died subsequently to the passage of this act, as that alphabetical lists by assembly districts, with residences, ages, and a full statement of all particulars may, at any time, be made therefrom; and from the names and facts so arranged, to have prepared and made, or printed, and to cause to be delivered to each inspector of elections in each election district in the city and county of New York, on or before the organization of the board of inspectors in each district on the first day of any revision of registration, an alphabetical

1872, ch. 673, § 30. To arrange the names of such deceased voters alphabetically by assembly districts, with residences, etc.

To furnish copy to each inspector.

To be called the
"record of
deaths."

Inspectors to
attach "record
of deaths" to
registers.

Registers to be
corrected by
"record of
deaths."

1872, ch. 635, §31,
Comp. 814.
Chief of bureau
to prepare an-
other "record
of deaths."

Called "addi-
tional record of
deaths."

To furnish copy
to each inspec-
tor to be at-
tached to
registers.

On opening of
polls the regis-
ters to be cor-
rected by "ad-
ditional record
of deaths."

1872, ch. 675,
§32, Comp. 815.

record of the male persons twenty-one years of age and upward, who, in the assembly district in which the election district in which the inspector is to serve, since the third day prior to the day of the last preceding election, and within at least five days prior to any such first day of revision of registration, have died. Said record shall be known and designated as a record of deaths; and it shall be the duty of each of the inspectors of election in each election district, upon the receipt of such record, to securely attach the same to the inside of the register in his custody, to the end that it may be preserved; and on the first day of any meeting of the inspectors of election in any election district, held for the purpose of a revision of registration, it shall be the duty of each inspector, as soon as the organization of the board of inspectors is completed, to examine the register in his custody, and as to the name of every person upon said registers, who by said record of deaths, shall, by a coincidence in respect to said name and facts, appeared to have deceased, and opposite to and against every such name, to enter, in the column headed "why disqualified," the word "dead," in the column headed "date of erasing name," the month, day, and year of such erasing, and in the column headed "remarks," the words "stricken from registers," adding against each such entry made in the column of "remarks," the initial letters of the name of the inspector making such entry, and through the name of every person so stricken from the registers, and then only, shall draw a line as indicative that such name is erased from the register of that election district.

§ 1869. It shall further be the duty of the chief of the bureau of elections to prepare by assembly districts, in the manner set forth in the preceding section, an additional record of such deaths as shall have occurred subsequent to the date of the record of deaths provided for in the preceding section, and within at least three days prior to the day of any such local election held in the city of New York. Said record shall be known and designated as an additional record of deaths, and a copy thereof shall, on or before the opening of the polls in each election district on the day of any such local election, be furnished to each inspector, who shall securely attach the same to the inside of his register, to the end that it may be preserved, and he have the same during the day of election with him at the polling-place, and on the opening of the poll shall proceed to make the same examination, entries, letters, and lines as to the name of any registered person found upon said additional record of deaths, as is provided for in the preceding section in the case of the name of a registered person found on the record of deaths.

§ 1870. The record of deaths, and the additional record of deaths, provided for in this chapter and furnished to each in-

spector, shall be left by him with the chief of the bureau of elections at the time and in the manner provided for the return of the register used by him on the day of any local election, and with such register.

"Record of deaths," and "additional record of deaths," to be filed with chief of bureau.

§ 1871. From and after the passage of this act, it shall be the duty of each of the clerks of the courts of oyer and terminer and general and special sessions, to prepare, and on or before the fifth day of each and every month, to file with the chief of the bureau of elections a certified record containing the name, residence, and age of each and every person convicted in each of said courts respectively of an offense punishable by death or imprisonment in a State prison, during the month immediately preceding, stating the alias or aliases of every such person, if known; the offense with which charged; the action of the court; and if sentenced, the sentence imposed, and whether confined in a State prison or a penitentiary. Any clerk of either of said courts who shall fail, neglect, or refuse to comply with the provisions or requirements of this section shall, for each and every such offense, be deemed guilty of a misdemeanor.

Id. §33. Clerks of courts to make monthly reports to chief of bureau of persons convicted of crimes punishable with death or imprisonment in State prison.

Neglect a misdemeanor.

§ 1872. Any person who is a qualified voter in the city and county of New York may, upon any day of registration, or revision of registration, or of election, challenge and contest the right of any person to be registered in any election district, or to vote at any poll in the said city or county, or may require the name of any registered person to be marked for challenge, and on any such day or days shall be entitled to be heard by the inspectors of election in any election district in relation to corrections of or additions to their registers.

Id. §34. Qualified voters may challenge right to register or vote.

§ 1873. Hereafter the board of police of the city of New York shall designate and appoint the place of registry and polling-place in each of the election districts of the city and county of New York, and shall hire all such places, and cause the same to be fitted up, warmed, lighted, and cleansed, and the work of registration shall be carried on at the places so designated for such purposes. But in each election district such place shall be in the most public, orderly, and convenient portions of the district, and no building or part of building shall be designated or used as a place of registry, revision of registration, or polling-place, in which, or in any part of which, spirituous or intoxicating liquor is sold, or has been sold within sixty days next preceding the time of using the same; and no place shall be designated or used for any such purpose without the same shall be well lighted with gas—unless there shall be no place in the district obtainable which is so lighted—and the unoccupied space allowed in front of the ballot boxes, in any polling-place, shall be equivalent to a room at least twelve feet square.

Id. §35. Board of police to designate, hire, and fit up all polling-places. Location of polling-places.

Not in any building where liquor is sold, or has been sold within 60 days

1872, ch. 673,
§86, Comp. 816.
Each political
party to have
challengers at
places of regis-
tration and
election.

§ 1874. At every election held in the city and county of New York, each political party shall have the right to designate, place, and keep a challenger at each place of registration, revision of registration, and voting, who shall be assigned such position immediately adjoining the inspectors of election as will enable him to see each person as he offers to register or vote, and who shall be protected in the discharge of his duty by the inspectors of election and the police. Each political party may remove any challenger appointed by it, and all vacancies which, from any cause, shall arise, shall be filled by the same party, power, and authority as conferred the original appointment.

Id. §37,
as amended
1874, ch. 621, §2.
Registration of
voters.

§ 1875. No person who is registered in one election district shall register or cause himself to be registered in another district while any prior registration remains unerasd, or in any other manner than is in this chapter provided; but if in the event of any revision of any general registration in any portion of the city and county of New York, any person shall present himself before any board of registration for the purpose of being registered as a voter, and it shall appear that the name of such person is borne upon the registry of any election district other than that in which he shall at the time of such revision make application for registration, and that since the day of the preceding election or registration he has removed from the district in which he was then registered to the district in which he shall at the time of any such revision, apply for registration, and it shall also appear that there is no meeting of the board of inspectors in the district in which his name shall be borne upon the registry for the purpose of revision, then and in such event the oath of removal may be made before any member of the board of inspectors in any district to which he shall have removed, and the person so appearing at any such revision of registration shall be entitled to all the rights and privileges to which he would be entitled were the registration a general registration, and the said person making an original application for registration.

Oath of
removal, before
whom made.

Id. §38.
Concurrence of
majority of
inspectors
required.

§ 1876. For all powers, authority, and duties in this chapter prescribed for or conferred upon, and all action required of inspectors of election, or of a board of said inspectors of election, save where such authority or action is specifically allowed to each of said inspectors, the concurrence or assent of a majority of all the inspectors of election in any election district must in all cases be obtained.

Id. §39.
Inspectors and
poll-clerks held
to be election
district officers.

§ 1877. The several offices of inspectors of election and poll-clerks, in this chapter named and created, are and shall be in all courts and proceedings deemed and held respectively to be election district offices, and it shall be the duty of the said inspect-

ors of elections and poll-clerks respectively, or of a majority of the said inspectors, to be in constant attendance during the hours and times fixed for the discharge of their several duties.

Attendance to duty,

§ 1878. All data and statistics, and all registers, poll-books, and records of every kind and nature which, under this chapter, or under any law of this State, or which in compliance with any direction, resolution, or order of the board of police of the city of New York, are or may be required to be made, ascertained, or kept by, or returned to or filed with either the chief of the bureau of elections or the register of records, in the board of health, shall at all times, during office hours, be open to the inspection, examination, comparison, and copying of any citizen or elector, free of any charge whatsoever.

1872, ch. 675, §40, Comp. 817. Registers, books, papers, to be open to inspection.

§ 1879. Any inspector of election, poll-clerk, or other officer of elections, or any challenger appointed in compliance with the provisions of this chapter, or any person designated as provided in this chapter to be present at the canvass of any ballots, shall at any time between the Tuesday five weeks preceding the day of any general or local election held in the city or county of New York, and ten days after the first official promulgation by the board of county canvassers of the canvass, declaration, and certificate of the result of any such election, have full power and authority to make a thorough and effective canvass of the election district in and for which he has been or was designated to serve and act, upon any day of registration, revision of registration, or election, and to make full inquiry respecting any and every male resident of any dwelling, building, or other place of abode in any such election district, his age, term of residence, and qualification as a voter; but the power and authority by this section conferred upon any inspector of election, poll-clerk, or other officer of election, or any challenger or person designated to watch the canvass of ballots, shall wholly cease upon his resignation or removal from the office or position to which he was appointed, or for which he was designated.

Id. §41. Officers of election, etc., have power to canvass district and to make full inquiry, etc., into qualification of voters.

Such power to cease with term of office.

§ 1880. If at any time a special election shall be held in any portion of the city and county of New York, the same revision of registration shall be had and made for any such portion of said city and county, and at the same intervals of time and times preceding the day of any such special election, and in the same manner as if the said election was a local election in, for, and throughout the said city and county, and each and every of the provisions of this chapter not inconsistent with the terms of this section, shall apply with as full force and effect to any such special election or revision of registration therefor as if the same was for a local election in, for and throughout the said city and county.

Id. §42. Temporary provisions omitted. Special election in a portion of the city, same registration as for local election throughout city.

The residence of each elector voting shall be entered by each poll-clerk in the column of his poll-list headed "residence," and the name of each such elector in the column headed "name of voter," and opposite the residence and name of any such elector in each additional column provided for in the preceding section, and corresponding in its heading with the name and number of a box in which a ballot of the elector shall have been deposited, shall be written a check or mark similar to the letter V, and in each such additional column corresponding in its heading with the name and number of box in which no ballot of the elector shall have been deposited, shall be written the word "no." In the column of "remarks," opposite the name of each person challenged, shall be noted the oath or oaths offered and taken by any such person.

What entries to be made therein.

§ 1885. As soon as the poll of an election shall have been finally closed, the inspectors of election, in their several election districts, shall immediately, and at the place of the poll, proceed to canvass the votes. Such canvass shall be public, and shall not be adjourned or postponed until it shall have been fully completed, and the several statements hereinafter required to be made by the inspectors shall have been made out and signed by them. No vote shall be received, nor shall any ballot be counted or canvassed, nor shall any statement of votes, announcement, or proclamation, in this chapter required, be made at any time when the main entrance to the room in which the election is held shall be closed in such a manner as to prevent ingress and egress, but the said inspectors may station one or more officers at such entrance to exclude disorderly persons; nor shall any such duties be performed unless at least six persons, if so many claim that privilege, are allowed to be present, and so near that they can see whether the duties of the said inspectors are faithfully performed. Each candidate for any office to be filled at the election, may, by a certificate in writing, signed by him, designate one person for each election district in which he is a candidate, to be present at the canvass of the ballots containing the names of the persons designated for that office. The inspectors of election and the police or other officers attending at such election district specified in said certificate, shall make a passage for such person to the said inspectors, and the said inspectors shall permit him to be present at the canvass of all the ballots in the box containing the ballots for the office specified in the said certificate, and so near to them that he can see that such canvass, and the statement required of the votes found in each box, are correctly made. And no inspector of election, or board of inspectors, or police or other officer, shall allow such person to be molested or removed during the canvass of such

1872, ch. 673, § 47. Comp. 819.

At close of poll votes to be canvassed in public and without adjournment until completed.

No vote to be received or counted while entrance is closed or obstructed.

Number to witness canvass.

Each candidate may designate a witness.

To be protected.

ballots, or until such statement has been made, completed, and signed, unless he shall be personally guilty of fraudulent or disorderly conduct.

Id. §48.
Canvass, how
to commence.

§ 1886. The canvass shall commence by a comparison of the poll-lists, from the commencement, and a correction of any mistakes that may be found therein, and such comparison shall be continued until the poll-lists agree as to the number of ballots deposited in each box; when they have been made to agree, one of the inspectors shall publicly announce, in a loud voice, the number of ballots deposited in each box as shown by the poll-lists.

Must be public-
ly announced.

Id. §49.
Boxes to be
opened and
canvassed.

§ 1887. The boxes shall then be opened, and the ballots therein canvassed, in the order prescribed in this section, and the canvass of the ballots found in one box shall be completed before another box is opened. The boxes shall be canvassed in the following order:

Order of
canvass.

1. President.
2. State.
3. Congress.
4. Senate.
5. Assembly.
6. City.
7. Justices.
8. Judiciary.
9. City and County.

1872, ch. 675, §50,
Comp. 820.
First duty on
opening box.
Number of
votes compared
with poll-list.

§ 1888. When a box is opened, the ballots contained therein shall be taken out and counted unopened, except so far as to ascertain that each ballot is single. If two or more ballots shall be found so folded together as to present the appearance of a single ballot, they shall be destroyed, if the whole number of ballots exceeds the whole number of votes, as shown by the poll-lists, and not otherwise.

Id. §51.
Ballots found in
the wrong box,
how treated.

§ 1889. No ballot properly indorsed, found in a box different from that designated by its indorsement, shall be rejected, but shall be counted in the same manner as if found in the box designated by such indorsement; provided that the counting of such ballot or ballots shall not produce an excess over the number of ballots deposited in the box, as shown by the poll-lists.

Id. §52.
Proceedings in
case of excess
of ballots.

§ 1890. If a greater number of ballots shall be found in a box than is required by the correspondent columns of the poll-lists, all the ballots shall be replaced in the box, and one of the said inspectors to be designated by the board shall, without seeing the same, and with his back to the box, publicly draw out and destroy as many ballots unopened as shall be equal to such excess.

Id. §53.

§ 1891. The board shall then proceed to canvass and estimate

the votes in the following manner: The said inspectors shall open the ballots, and place those which contain the same names together, so that the several kinds shall be in separate piles or on separate files. One of the said inspectors shall then take the kind of ballots which appears to be the greatest in number and count them by tens, carefully examining each name on each of said ballots. Such inspector shall then pass the ten ballots to the inspector sitting next to him, who shall count them in the same manner, and he shall then pass them to the third inspector, who shall also count them in the same manner. The third inspector shall then call the names of the persons named in the ballots, and the offices for which they are designated, and the poll-clerks shall tally the votes for each of such persons. The fourth inspector shall watch the proceedings of the other inspectors and the poll-clerks, and at his option may perform the same duties in respect to the canvass as are prescribed for the third inspector, or, in case of the absence of a poll-clerk, may perform his duties. When the counting of each kind of ballots shall be completed, the poll-clerks shall compare their tallies together and ascertain the total number of ballots of that kind so canvassed, and when they agree upon the number, one of them shall announce it, in a loud voice, to the inspectors. The kind of ballots which appear to be next greatest in number, and afterwards each of the other kinds of ballots in succession shall then be canvassed in the same manner. The ballots containing names partly from one kind of ballots and partly from another, being those usually called split tickets, and those from which the name of a person proper to be voted for on such ballots has been omitted or erased, usually called scratched tickets, shall then be canvassed separately by one of the inspectors sitting between two of the other inspectors, which inspector shall call each name to the poll-clerks, and the office for which it is designated, the other inspectors looking at the ballot at the same time, and the poll-clerks making note of the same. When all the ballots found in the box have been canvassed in this manner, the poll-clerks shall compare their tallies together and ascertain the total number of votes received by each candidate, and when they agree upon the numbers, one of them shall announce, in a loud voice, to the inspectors, the number of votes received by each candidate, on each of the kinds of ballots containing his name, the number received by him on the split and scratched tickets, and the total number of votes received by him. If, after the ballots in any box have been opened or canvassed, the whole number of them shall be found to exceed the whole number of votes required by the corresponding columns of the poll-lists, the said inspector shall return all the ballots into the box, and shall thor-

Process of canvassing.
Ballots to be opened, how arranged.
Order and manner of counting by three inspectors

Poll-clerks, duty of.
Fourth inspector, duty of.

Poll-clerks to compare tallies, and announce number.
Further order of canvassing.
Split tickets, etc.

Scratched tickets, when, how, and by whom canvassed.

Poll-clerks compare tallies and announce number for each candidate on each kind of ticket.

Proceedings in case of excess of ballots in box.

oughly mingle the same, and one of the inspectors to be designated by the board shall, without seeing the same and with his back to the box, publicly draw out of such box so many of such ballots as shall be equal to the excess, which shall be forthwith destroyed; but if the ballots have been canvassed, the votes for the persons named therein shall first be deducted from the votes entered for such person on the tallies.

1872, ch. 675, §54,
Comp. 821.

A ballot of each
kind to be
pasted on each
statement, and
certificate to be
made thereon.

Proceedings if
only one of a
kind of ballot is
found.
If two only.
Ballots rejected
as defective to
be pasted to
statement.

1872, ch. 675, §55,
Comp. 822.
Unchanged.
When ballots in
any box are
canvassed, pro-
clamation to be
made.

Proclamation
evidence of
result.

1874, ch. 621, §3,
Comp. 832.
Statement of
result, inspec-
tors to make,
etc.

§ 1892. The canvass of the ballots found in any box shall be completed by ascertaining how many ballots of the same kind corresponding in respect to the names of the persons thereon and the offices for which they are designated, have been received; and the result being found, the said inspectors shall securely paste or attach to each statement of such canvass hereinafter directed to be made one ballot of each kind found to have been given for the officers to be chosen at such election; and they shall state in words at full length, immediately opposite such ballot, and written partly on such ballot and partly on the paper to which it shall be pasted or attached, the whole number of all the ballots that were received which correspond with the one so pasted or attached, so that one of each kind of the ballots received at such election for the officers then to be chosen shall be pasted or attached to such statement of such canvass. If only one ballot of any kind shall be found in the box, it shall be pasted or attached to the statement to be delivered to the clerk of the board of aldermen, and if only two ballots of any kind are found in the box, one shall be pasted or attached to the statement to be delivered to the clerk of the board of aldermen, and the other to the statement to be delivered to the county clerk. They shall also paste or attach all the ballots rejected by them as being defective in whole or in part, to the statement to be delivered to the clerk of the board of aldermen.

§ 1893. When the canvass of the ballots found in any box shall have been completed, and the poll-clerks shall have announced to the inspector the total number of votes received by each candidate, the chairman of the board of inspectors of election, or, in his absence, the inspector acting as such, shall proclaim in a loud voice the total number of votes received by each of the persons voted for upon the ballots found in that box, and the office for which they are designated, and such proclamation shall be prima facie evidence of the result of the canvass of such ballots.

§ 1894. The inspectors shall immediately after such proclamation deliver to a patrolman on duty at the polling-places a statement subscribed with their names, which shall be forthwith conveyed by the said patrolman to the station-house of the pre-

cinct where the polling-place is located ; and the captain or sergeant in charge shall immediately transmit, by telegraph or otherwise, the result of such statement to the superintendent of police. Such statement shall contain the total number of votes in such ballot-box, and the number of votes found therein for each and every candidate. The captain or sergeant in command shall immediately deliver said statement to the chief of the bureau of elections, whose duty it shall be to file and preserve the same.

Statement to be delivered to chief of bureau of elections.

§ 1895. The said inspectors shall make triplicate statements of the result of the canvass and estimate of the votes. Each of the statements shall contain a caption, stating the day on which, and the number of the election district, and assembly district, and the city and county in relation to which such statement shall be made, and the time of opening and closing the polls of such election district. It shall also contain a statement showing the whole number of votes given for each person, designating the office for which they were given, which statement shall be written, or partly written and partly printed, in words at length; and at the end thereof a certificate that such statement is correct in all respects; which certificate and each sheet of paper forming part of the statement shall be subscribed by the said inspectors and poll-clerks. If any inspector or poll-clerk shall decline to sign any return, he shall state his reasons therefor in writing, and a copy thereof signed by him shall be enclosed with each return. Each of the statements shall be inclosed in an envelope, which shall then be securely sealed with wax, and each of the inspectors and each of the poll-clerks shall write his name across every fold at which the envelope, if unfastened, could be opened, and across the seals thereon. One of the envelopes shall be directed on the outside to the clerk of the board of aldermen, another to the county clerk, and the third to the chief of the bureau of elections. Each set of tallies shall also be inclosed, securely sealed, and signed in like manner, and one of the envelopes shall be directed on the outside to the chief of the bureau of elections, and the other to the mayor. On the outside of every envelope shall be indorsed whether it contains the statement or the tallies, and for what election and assembly district.

1872, ch. 673, § 56. Comp. 822.

Triplicate statements to be made.

Certified and subscribed on each sheet by inspectors and poll-clerk.

Inspectors declining to sign to state reasons.

Statements to be inclosed, sealed, and subscribed. To whom directed. Tallies inclosed and directed to mayor and chief of bureau of elections.

§ 1896. Within twenty-four hours after the several statements shall have been subscribed, one of the said inspectors shall deliver to the clerk of the board of aldermen the statement directed to him; another inspector shall deliver to the county clerk the statement directed to him; and a third inspector shall deliver to the chief of the bureau of elections the statement directed to him. One of the poll-clerks shall deliver to the mayor the tal-

Id. § 57.

By whom and at what time deliveries of statements to be made.

Tallies, by whom to be delivered.
1872, ch. 575, § 58, Comp. 823.
Poll-lists to be certified and filed with county clerk, and bureau of elections.

lies directed to him, and the other poll-clerk shall deliver to the chief of the bureau of elections the tallies directed to him.

§ 1897. The poll-lists kept at such election shall be certified, in writing, by both poll-clerks, to be a true and correct list of the vote cast at the said election, in their respective election districts, and within twenty-four hours of the close of the canvass shall be filed by such poll-clerks, the one in the office of the county clerk, the other in the office of the chief of the bureau of elections, and shall be there preserved.

Id. § 59.
Remaining ballots destroyed.

§ 1898. The remaining ballots not so pasted or attached to said statements, as hereinbefore provided, shall be destroyed, and the board of inspectors shall be dissolved.

Id. § 60.
Deliveries, how made.

§ 1899. In case any officer to whom any of the papers in the preceding sections are directed to be delivered shall be absent from his office, the same may be delivered to the person authorized in such case to attend to his official duties, and the officer or person to whom any envelope containing any statement or tally, or to whom any register, or copy thereof, or poll-list shall be delivered as in this chapter provided, shall give a receipt therefor, to the inspector or poll-clerk from whom the same is received, and such receipt shall be filed by said inspector or poll-clerk in the office of the comptroller, before any payment for his services shall be made.

Receipts to be given.

Receipts to be filed with comptroller.

Id. § 61.
Envelopes filed with clerk of board of supervisors to be opened.

§ 1900. The envelopes delivered to the clerk of the board of aldermen shall be kept sealed, and shall not be opened until the same are produced before the board of county canvassers, when they shall be opened for the canvassing of the returns, and, when so opened, the presiding officer of the said board shall mark each separate sheet of the statements with the initials of his name.

Id. § 62.
Filed with county clerk.

§ 1901. The envelopes delivered to the county clerk shall be kept sealed and unopened until the same shall be required to be opened by the board of county canvassers, or other lawful authority, and, when so opened, the officer or person opening the same shall mark each separate sheet of the statement with the initials of his name.

Id. § 63.
Board of county canvassers, duty of. How performed.

§ 1902. The board of aldermen of the city of New York shall be the board of county canvassers; and it shall be their duty to finally canvass, declare and certify the result of every election hereafter held in the city and county of New York. Such canvass, declaration, and certification shall be made and conducted under the existing provisions of law, not inconsistent with this chapter, so far as the same are applicable.

Id. § 64.

§ 1903. If at any general registration of voters, or at any meeting of inspectors of election held for such purpose or for a revision thereof as provided in this chapter, any person shall

falsely personate an elector or other person, and register or attempt or offer to register in the name of such elector or other person; or if any person shall knowingly or fraudulently register, or offer or attempt, or make application to register, in or under the name of any other person, or in or under any false, assumed, or fictitious name, or in or under any name not his own; or shall knowingly or fraudulently register in two election districts; or having registered in one district, shall fraudulently attempt or offer to register in another; or shall fraudulently register, or attempt or offer to register in any election district not having a lawful right to register therein; or shall knowingly or willfully do any unlawful act to secure registration for himself or any other person; or shall knowingly, willfully, or fraudulently, by false personation or otherwise, or by any unlawful means cause or procure, or attempt to cause or procure, the name of any qualified voter in any election district to be erased or stricken from any register of the voters of such district, made in pursuance of this chapter, or otherwise than is in this chapter provided; or by force, threat, menace, intimidation, bribery, reward, or offer or promise thereof, or other unlawful means, prevent, hinder, or delay any person having a lawful right to register or to be registered, from duly exercising such right; or who shall knowingly, willfully, or fraudulently compel or induce, or attempt or offer to compel or induce, by such means, or any unlawful means, any inspector of election or other officer of registration, in any election district, to register or admit to registration any person not lawfully entitled to registration in such district, or to register any false, assumed, or fictitious name, or any name of any person, except as provided in this chapter; or shall knowingly, or willfully, or fraudulently interfere with, hinder, or delay any inspector of election or other officer of registration in the discharge of his duties, or counsel, advise, or induce, or attempt to induce any such inspector or other officer to refuse or neglect to comply with or to perform his duties, or to violate any law prescribing or regulating the same; or shall aid, counsel, procure, or advise any voter, person, inspector of election, or other officer of registration, to do any act by law forbidden, or in this chapter constituted an offense, or to omit to do any act by law directed to be done, every such person shall, upon conviction thereof, be adjudged guilty of a felony, and shall be punished by imprisonment in a State prison not less than one nor more than five years.

At registration falsely personating elector, or attempting to register under name of another, or a false name, or in two districts, or not having right, or aid and procure etc., or hinder, or delay persons having lawful right, etc., or interfere with election officers, etc., is a felony

How punished.

§ 1904. If, at any election hereafter held in the city and county of New York, any person shall falsely personate any elector or other person, and vote, or attempt or offer to vote in

1872, ch. 875, § 65
Comp. 824.

Certain acts at
elections de-
clared felonies.

or upon the name of such elector or other person ; or shall vote or attempt to vote in or upon the name of any other person, whether living or dead, or in or upon any false, assumed, or fictitious name, or in or upon any name not his own ; or shall knowingly, willfully, or fraudulently vote more than once for any candidate for the same office, except as authorized by law, or shall vote or attempt or offer to vote in any election district without having a lawful right to vote therein, or vote more than once, or vote in more than one election district, or having once voted, shall vote, or attempt, or offer to vote again ; or shall knowingly, willfully, or fraudulently do any unlawful act to secure a right, or an opportunity to vote for himself or for any other person, or shall by force, threat, menace, intimidation, bribery, or reward, or offer or promise thereof, or otherwise, unlawfully, either directly or indirectly, influence or attempt to influence, any elector in giving his vote, or prevent or hinder, or attempt to prevent or hinder, any qualified voter from freely exercising the rights of suffrage, or by any such means induce, or attempt to induce, any such voter to refuse to exercise any such right ; or shall by any such means, or otherwise, compel or induce, or attempt to compel or induce, any inspector of election or other officer of election, in any election district, to receive the vote of any person not legally qualified or entitled to vote at the said election in such district ; or shall knowingly, willfully, or fraudulently interfere with, delay, or hinder in any manner any inspector of election, poll-clerk, or other officer of election, in the discharge of his duties ; or by any of such means, or other unlawful means, knowingly, willfully, or fraudulently counsel, advise, induce, or attempt to induce, any inspector of election, poll-clerk, or other officer of election, whose duty it is to ascertain, proclaim, announce, or declare the result of any such election, or to give or make any certificate, document, report, return, or other evidence in relation thereto, to refuse or neglect to comply with his duty, or to violate any law regulating the same, or to receive the vote of any person, in any election district, not entitled to vote therein, or to refuse to receive the vote of any person entitled to vote therein ; or shall aid, counsel, or advise, procure, or assist any voter, person, or inspector of election, or other officer of election to do any act by law forbidden, or in this chapter constituted an offense, or to omit to do any act by law directed to be done, every such person shall, upon conviction thereof, be adjudged guilty of a felony, and shall be punished for each and every such offense, by imprisonment in a State prison for not less than one nor more than five years.

How punished.

§ 1905. If any poll-clerk, or any inspector of election, performing the duties of poll-clerk, shall willfully keep a false poll-list, or shall knowingly insert in his poll-list any false statement, or any name or statement, or any check, letter, or mark, except as in this chapter provided, he shall, upon conviction thereof, be adjudged guilty of a felony, and shall be punished by imprisonment in a State prison for not less than one nor more than five years.

1872, ch. 675, § 86,
Comp. 826.
Certain acts by
poll-clerks
declared to be
felonies.

How punished.

§ 1906. Every inspector of election who shall wilfully exclude any vote duly tendered, knowing that the person offering the same is lawfully entitled to vote at such election, or shall willfully receive a vote from any person who has been duly challenged in relation to his right to vote at such election, without exacting from such person such oath or other proof of qualification as may be required by law, or who shall willfully omit to challenge any person offering to vote, whom he knows or suspects not to be entitled to vote, and who has not been challenged by any other person, shall, upon conviction thereof, be adjudged guilty of a felony, and shall be punished by imprisonment in a State prison for not more than two years.

Id. § 87.
Certain acts of
inspectors de-
clared felonies.

How punished.

§ 1907. Every inspector of election, member of any board of canvassers, messenger, poll-clerk, or other officer authorized to take part in or perform any duty in relation to any canvass or official statement of the votes cast at any election, who shall willfully make any false canvass of such votes, or who shall make, sign, publish, or deliver any false return of such election, or any false certificate or statement of the result of such election, knowing the same to be false, or who shall willfully deface, destroy, or conceal any statement or certificate intrusted to his care or custody, shall, on conviction thereof, be adjudged guilty of a felony, and shall be punished by imprisonment in a State prison not less than two nor more than five years.

1872, ch. 675, § 88,
Comp. 826.
Certain acts of
any officer of
election or
member of
board of can-
vassers de-
clared felonies.

How punished.

§ 1908. If any person other than an inspector of election shall at any such election knowingly and willfully put, or cause to be put, any ballot or ballots, or other paper having the semblance thereof, into any box used at such election for the reception of votes; or if any such inspector shall knowingly and willfully cause or permit any ballots to be in said box at the opening of the polls and before voting shall have commenced; or shall knowingly and willfully, or fraudulently put any ballot or other paper having the semblance thereof into any such box at any such election, unless the same shall be offered by an elector, and his name shall have been found and checked upon the register, as hereinbefore provided; or if any such inspector, or other officer or person, shall fraudulently, during the canvass of ballots, in any manner change, substitute, or alter any ballot

Id. § 89.
Stuffing ballot-
boxes, changing
ballots, remov-
ing from or
adding ballots
to ballot-box
declared
felonies.

taken from the box then being canvassed, or from any box which has not been canvassed, or shall remove any ballot or semblance therefrom, or add any ballot, or semblance thereof, to, the ballots taken from the box then being canvassed, or from any box which has not been canvassed, every such person shall, upon conviction thereof, be adjudged guilty of felony, and shall be punished by imprisonment in a State prison for not less than one nor more than five years.

How punished.

Id. §70.
Fraudulent,
corrupt and
willful neglect
of duty de-
clared a felony.

§ 1909. If any inspector of election, poll-clerk, or other officer of registration, revision, election, or canvass, of whom any duty is required in this chapter, or by the general election laws of this State (so far as the same are consistent with the provisions of this chapter), shall be guilty of any willful neglect of such duty, or of any corrupt or fraudulent conduct or practice in the execution of the same, he shall, on conviction thereof, be adjudged guilty of a felony, and shall be punished by imprisonment in a State prison for not less than one nor more than five years.

How punished.

Id. §71.

Election offi-
cers stealing,
destroying,
mutilating,
removing,
secreting, or
altering, or
erasing, or per-
mitting others
to do so, de-
clared felonies.

§ 1910. Every inspector of election, poll-clerk, or other officer or person having the custody of any record, register of votes or copy thereof, oath, return of votes, certificates, poll-list, or any paper, document, or evidence of any description in this chapter, directed to be made, filed, or preserved, who is guilty of stealing, willfully destroying, mutilating, defacing, falsifying, or fraudulently removing or secreting the whole or any part thereof, or who shall fraudulently make any entry, erasure, or alteration therein, except as allowed and directed by the provisions of this chapter, or who permits any other person so to do, shall, upon conviction thereof, be adjudged guilty of a felony, and shall be punished for each and every such offense by imprisonment in a State prison, not exceeding five years, and shall, in addition thereto, forfeit his office.

How punished.

1872. ch. 675, §72,
Comp. 827.
Same acts by
persons not
officers, de-
clared felonies.

§ 1911. Every person not an officer, such as is mentioned in the last preceding section, who is guilty of any of the acts specified in said section, or who advises, procures, or abets the commission of the same, or any of them, shall, upon conviction thereof, be adjudged guilty of a felony, and for each and every such offense shall be punished by imprisonment in a State prison, not exceeding five years.

How punished.

Id. §72.
False swearing
declared
perjury.

§ 1912. Any person who shall be convicted of willful and corrupt false swearing or affirming in taking any oath or affirmation prescribed by or upon any examination provided for in this chapter, or upon being challenged as unqualified upon offering to register or vote, shall be adjudged guilty of willful and corrupt perjury.

§ 1913. Every person who shall willfully and corruptly instigate, advise, induce, or procure any person to swear or affirm falsely, as aforesaid, or attempt or offer so to do, shall be adjudged guilty of subornation of perjury, and shall, upon conviction thereof, suffer the punishment directed by law in cases of willful and corrupt perjury.

Id. §74.
Instigating others to swear false, declared subornation of perjury.

§ 1914. If any person shall fraudulently change or alter the ballot of any elector, or substitute one ballot for another, or fraudulently furnish any elector with a ballot containing more than the proper number of names, or shall intentionally practice any fraud upon any elector to induce him to deposit a ballot as his vote, and to have the same thrown out and not counted, or to have the same counted for a person or candidate other than the person or candidate for whom such elector intended to vote, or otherwise defraud him of his vote, every such person shall, on conviction thereof, be adjudged guilty of a felony, and shall, if an inspector of election, poll-clerk, or other officer of election, be punished with imprisonment in a State prison not less than two nor more than five years; and, if not such inspector, poll-clerk, or other officer of election, shall be punished by imprisonment in a State prison for not less than one nor more than five years.

Id. §75.
Acts tending to defraud a voter of his vote declared felonies.

How punished.

§ 1915. If any person who shall have been convicted of bribery, felony, or other infamous crime under the laws of this State, shall thereafter vote or offer to vote at any election in the city and county of New York, without having been pardoned and restored to all the rights of a citizen, he shall, upon conviction thereof, be adjudged guilty of a felony, and for each and every such offense, shall be punished by imprisonment in a State prison for not less than one nor more than three years.

Id. §76.
Convicted felons offering to vote unless pardoned, guilty of felony.

How punished.

§ 1916. If any person shall willfully disobey any lawful command of an inspector of election, or of any board of inspectors of election given in the execution of his or their duty as such, at any election, he shall, upon conviction thereof, be adjudged guilty of a misdemeanor, and shall be punished by imprisonment in a penitentiary for not less than thirty days nor more than one year, or by a fine of not less than two hundred and fifty nor more than one thousand dollars, or by both such fine and imprisonment.

1872, ch. 875, §77, Comp. 828.
Disobeying any lawful command of board or inspector declared a misdemeanor.

How punished.

§ 1917. If at any general registration of voters, or revision thereof, or on any day of election, or during the canvass of the votes cast thereat, any person shall cause any breach of the peace, or use any disorderly violence, or threats of violence, whereby any such registration, revision, election, or canvass shall be impeded or hindered, or whereby the lawful proceedings of any inspector of election, or board of inspectors of

Id. §78.
Certain disorderly acts at places of registration and polls declared felonies.

election, or poll-clerk, or other officer of such election, or challenger, or person designated to be present at the canvass of any ballots, as hereinbefore provided, are interfered with, every such person shall, upon conviction thereof, be adjudged guilty of a felony, and upon conviction thereof, shall be punished by imprisonment in a State prison for not less than one nor more than five years.

How punished.

Id. §79.
Interference
with election
officers in per-
formance of
duty, or going
to or from such
duties, or
threats or
attempts,
declared mis-
demeanors.

§ 1918. If any person knowingly or willfully obstruct, hinder, assault, or by bribery, solicitation, or otherwise, interfere with any inspector of election, poll-clerk, challenger, or person designated as provided in this chapter to be present at the canvass of any ballots in the performance of any duty required of him, or which he may by law be authorized or permitted to perform; or if any person, by any of the means before mentioned, or otherwise unlawfully, shall, on the day of registration, revision of registration, or of election, hinder or prevent any inspector of election, poll-clerk, challenger, or any person designated, as provided in this chapter, to be present at the canvass of ballots, in his free attendance and presence at the place of registration, or of election in the election district in and for which he is appointed or designated to serve, or in his full and free access and egress to and from any such place of registration, revision of registration, or of election; or to and from any room where any such registration, revision of registration, or election or canvass of votes, or of making any returns or certificates thereof, may be had, or shall molest, interfere with, remove, or eject from any such place of registration, or poll of election, or of canvassing ballots cast thereat, or of making returns or certificates thereof, any such inspector of election, poll-clerk, challenger, or person designated as provided in this chapter to watch the canvass of any ballots, save as otherwise provided in this chapter, or shall unlawfully threaten, or attempt, or offer so to do, every such person shall be guilty of a misdemeanor, and on conviction thereof, shall be punished by imprisonment in a penitentiary for not less than six months nor more than one year, or shall be fined not less than five hundred nor more than two thousand dollars, or both.

How punished.

1872, ch. 875, §80.
Comp. 829.
Willful neglect
or refusal to
perform duties
of inspector
declared a
misdemeanor.

§ 1919. Any inspector of election who shall willfully neglect, or when called on, shall willfully decline to exercise the powers conferred on him in this chapter, for any of the purposes set forth in section eighteen hundred and fifty-six of this act, shall be deemed guilty of a misdemeanor, and on conviction thereof shall be punished by imprisonment in a penitentiary for not less than thirty days nor more than one year, or by a fine of not less than two hundred and fifty nor more than one thousand dollars, or by both such fine and imprisonment.

How punished.

§ 1920. If any person shall, upon the day of any such election, or before the canvass of votes is completed, steal, or willfully break or destroy any ballot-box used, or intended to be used, at such election, or shall willfully or fraudulently conceal, secrete, or remove any such box from the custody of the inspectors of election, or shall alter, deface, injure, destroy or conceal any ballot which has been deposited in any ballot-box at such election, which has not been already counted and canvassed, or any poll-list used, or intended to be used at such election, or any report, return, certificate, or other evidence in this chapter required, or provided for, shall on conviction thereof, be adjudged guilty of a felony, and shall, for each and every such offense, be punished by imprisonment in a State prison for not less than two nor more than five years.

Id. §81.
Stealing or destroying, secreting or removing ballot boxes or ballots, poll-lists, report, return, certificate, etc., declared a felony.

How punished.

§ 1921. If in any election district, at any general registration of voters or revision thereof, or at any election hereafter held in the city and county of New York, any inspector of election or poll-clerk shall knowingly or willfully admit any person to registration, or make any entry upon any register of voters or poll-book, or receive any vote, or proceed with the canvass of ballots, or shall consent thereto, unless a majority of all the inspectors of election in said election district are present and concur, he shall, upon conviction thereof, be adjudged guilty of a misdemeanor, and shall be punished by imprisonment in the county jail not less than thirty nor more than sixty days, or fined not less than one hundred nor more than one thousand dollars, or by both such fine and imprisonment. If any inspector of election in any election district shall, without urgent necessity, absent himself from the place of registration or the polls in said district, upon any day of registration or election, whereby less than a majority of all the inspectors in such election district shall be present during the hours of registration, election, or canvass of ballots, he shall, upon conviction, be adjudged guilty of a misdemeanor, and shall be punished by imprisonment in the county jail not less than sixty days nor more than six months, or shall be fined not less than five hundred nor more than one thousand dollars, or both.

Id. §82.
Inspectors and poll-clerks admitting persons to registration willfully and unlawfully, guilty of a misdemeanor.

How punished.

Absence from duty except from urgent necessity, a misdemeanor.

How punished.

§ 1922. It is hereby made the especial duty of the district attorney of the county of New York to immediately prosecute all complaints which may be made of a violation of any of the provisions of this chapter, or of the election laws of the State, to final judgment; and the court before which any conviction for such violation shall be had, shall not, in any case, suspend sentence or judgment for more than ten days; but no indictment for such violation shall be brought to trial unless the complainant (if any), if he can be found, shall have at least two

Id. §83.
District attorney to prosecute all complaints of violations of this chapter to final judgment. Judgment not to be suspended more than 10 days.

days' notice, in writing, from the said district attorney, of the day when he intends to try the same.

1872, ch. 675, §84,
Comp. 880.

Keeping ballots, electioneering, and distributing tickets in polling-places, declared a misdemeanor.

How punished.

§ 1923. It shall be unlawful for any inspector of election, poll-clerk, challenger, or person designated as provided in this chapter to be present at the canvass of any ballots in any district, during the election or canvass of ballots, to have or keep any ballots behind the boxes or within the polling-places, or for them or any person or persons within the polling-place to electioneer, distribute tickets or ballots, or engage in any political discussion. Any violation of this section shall be a misdemeanor, and shall be punished by imprisonment in the county jail for not less than ten nor more than ninety days, or by a fine of not less than one hundred nor more than one thousand dollars, or both.

Id. §85.
Having distilled or spirituous liquors in polling-places, declared a misdemeanor.

§ 1924. Whoever, during the sitting of any board of inspectors of election in any election district in the city and county of New York, whether held for the purposes of registration, revision of registration, reception or canvass of votes, or of making return thereof, shall bring, take, order, or send into, or shall cause to be taken, brought, ordered, or sent into, or shall attempt to bring, take, or send into any place of registration, or revision of registration, or of election, any distilled or spirituous liquors whatever, or shall at any such time and place drink or partake of any such liquor, shall be deemed and held to be guilty of a misdemeanor.

Id. §86.
Irregularities in holding elections.

§ 1925. Irregularities or defects in the mode of noticing, convening, holding, or conducting an election, authorized by law, shall constitute no defense to a prosecution for a violation of the provisions of this chapter.

Id. §87.
Effect of certain acts.

§ 1926. Every act which, by the provisions of this chapter or the general election laws, is made criminal when committed with reference to the election of a candidate, is equally criminal when committed with reference to the determination of a question submitted to electors to be decided by votes cast at an election.

Id. §88.
New rule of evidence.

§ 1927. Upon any prosecution for procuring, offering, or casting an illegal vote, the accused may give in evidence any fact tending to show that he honestly believed, upon good reason, that the vote complained of was a lawful one, and the jury may take such facts into consideration in determining whether the acts complained of were willfully done or not.

Id. §89.
Meaning of word election as used in this chapter.

§ 1928. The word election, as used in this chapter, shall be construed to designate only elections had within the city and county of New York, for the purposes of enabling electors to choose some public officer or officers, under the laws of this State or the United States, or to pass upon any amendment,

law, or other public act or proposition submitted to vote by law.

§ 1929. The boundaries of all election districts, and the location of all places of registration, revision of registration, or polling-places shall be publicly advertised on the day preceding the first day of any general registration or revision of registration, and on each day of registration, revision of registration, or day of election, and on such day or days only. The official canvass, immediately upon its completion and declaration by the board of county canvassers, shall be publicly advertised for one day only. All advertising provided for in this section shall be done in two daily newspapers only, published in the city of New York, to be designated by the board of police, and in the City Record, and all matter advertised shall be prepared and furnished the journals in which it is to be inserted, free from unnecessary verbiage or repetition; and in the publication of any official canvass, all numbers shall be printed in numerals only, and the statement or declaration shall be put in tabular form.

Id. §90, as amended 1873, ch. 822, §4. "Canvassers" for "canvass;" and in the City Record inserted. Boundaries of election districts, etc., to be advertised.

§ 1930. The legal compensation of all inspectors of election and poll-clerks and other officers of election, the cost and expenses of all necessary election notices, posters, maps, advertisements, registers, books, blanks, and stationery, the rent and cost of fitting up, warming, lighting, cleaning, and safe-keeping of all places of registration, revision of registration, and polling-places, of furnishing, repairing, and carting ballot-boxes, and of all supplies of every kind and nature for all elections in the city of New York shall be a city charge, and shall, upon proper certificates and vouchers, be paid in the same manner as by law provided for the payment of other expenses of the said city of New York. The board of aldermen of the said city of New York shall yearly levy upon the estates, real and personal, of the said city and county of New York, the amounts estimated to be required to pay the expenses of the registration, or revision of registration, and of all elections which may be held in said city and county during the year.

1875, ch. 675, §91, Comp. 831. Expenses of elections to be a county charge, paid in same manner as other expenses of county.

Board of aldermen to yearly levy the amounts required to pay expenses of elections.

§ 1981. The sheriff or clerk of the county of New York, who shall receive a notice of an election, shall, without delay, deliver a copy of such notice to the board of aldermen, and each alderman of said city. He shall also cause a copy of such notice to be published once in each week until the election therein specified, in such newspapers in said county, not exceeding fifteen in number, having the largest circulation in the city and the county.

1842, ch. 130, §14, as amended 1860, ch. 490, Comp. 833. Duty of sheriff on receiving election notice.

CHAPTER XXV.

VARIOUS SUBJECTS OF MUNICIPAL OR LOCAL REGULATION.

Title 1.—The Streets.

1883, ch. 11, §5,
Comp. 857.
Fast driving or
riding, how
punished.

§ 1932. Any person who shall drive or ride any horse through any street, lane, alley, or public place within the city of New York, with greater speed than at the rate of five miles in an hour, shall be deemed guilty of disorderly conduct, and upon conviction thereof by any magistrate, either upon the confession of the party or competent testimony, may be fined for such offense any sum not exceeding ten dollars; and, in default of payment of such fine, may be committed to prison by such magistrate until the same be paid; but such imprisonment shall not exceed ten days.

1813, ch. 86,
§§198, 199,
Comp. 864.
Carriages to
take right side
of road.
Penalty.

§ 1933. In all cases of persons meeting each other in any street or road in the city of New York, in carriages, wagons, carts, or sleighs, each person so meeting shall go to that side of the street or road on his right, so as to enable the carriages, wagons, carts, or sleighs so meeting to pass each other, under the penalty of five dollars for every offense, to be recovered by an action, with costs of suit, in any court having cognizance thereof, by any person suing for the same. The proprietor of the carriage, wagon, or sleigh neglecting or refusing to turn to the right as above directed, shall be considered, if present at the time of such meeting, as the person committing the said offense, and if absent, then the driver thereof shall be so considered.

Who liable for
penalty.

1871, ch. 745, §1,
Comp. 857.
Weight of
loads and
width of tires.

§ 1934. No person shall, at any time, pass, drive, carry on or over the Southern Boulevard more than four thousand pounds (not including vehicle) at one load, on any vehicle on wheels, whose rims or tires are less than five inches in width. Any person violating the provisions of this section shall be liable to a penalty of ten dollars for each offense, to be recovered in the name of the mayor, aldermen, and commonalty in any district court.

Id. §2.
Loaded vehi-
cles to be
weighed, when
required.

§ 1935. The owner, agent, or driver of any loaded vehicle upon wheels, running upon the said Southern Boulevard, having rims or tires less than five inches in width, shall, upon being required by the authority having charge of said Southern Boulevard, permit such loaded vehicle to be weighed at the expense of

the city upon any scales erected upon the line of said Boulevard to ascertain if it exceed the weight permitted by law to be driven or carried over said road; and, upon refusal to do so, such owner, agent, or driver shall be liable to a penalty of five dollars for each offense, to be recovered in the same manner.

§ 1936. No person or persons shall throw, cast, or lay any ashes, offal, vegetables, garbage, dross, cinders, shells, straw, shavings, dirt, filth, or rubbish of any kind whatever in any gutter, street, lane, alley, or in any public place in the city. The willful violation of any of the provisions of this section shall be and is hereby declared to be a misdemeanor, and shall be punishable by a fine of not less than one dollar, nor more than ten dollars, or by imprisonment for a term of not less than one or more than five days.

1866, ch. 377,
§§1, 2,
Comp. 866.
Restrictions in
throwing ashes
etc., in streets.
Violations, how
punished.

§ 1937. Every person who shall willfully throw, expose, or place, or who shall willfully cause, or procure to be thrown, exposed, or placed, in or upon any street, highway, or public place in the city of New York, open for the passage of animals, any nails, pieces of metal, glass, or other substance or thing which might maim, wound, lame, cut, or otherwise injure any animal, shall be guilty of a misdemeanor.

1876, ch. 16, §1,
Comp. 858.
Throwing cer-
tain substances
in streets made
misdemeanor.

§ 1938. Every person who shall throw, expose, or place, or who shall cause or procure to be thrown, exposed, or placed in or upon any such street, highway, or public place, except upon the curves, crossings, or switches of railroad tracks, any salt, saltpeter, or other substance for the purpose of dissolving any snow or ice which may have fallen or been deposited thereon, shall be guilty of a misdemeanor.

Id. §2.

§ 1939. No procession or parade shall use any street, upon the surface of which is a railway track or tracks, by marching upon the said track or tracks; and a free passage of cars upon railway tracks shall not be interfered with by the formation, halt, or march of any such procession or parade, or of the persons composing it. Whenever any procession shall find it necessary to march across a railway track, the portion of said procession which, in so marching, is likely to stop the passage of any car or cars upon said track, shall come to a halt in order to permit said car to proceed.

1872, ch. 500, §1,
Comp. 867.
No procession
or parade to in-
terfere with
free passage of
cars upon rail-
ways.
How to cross
railway tracks.

§ 1940. All processions or parades occupying or marching upon any street, to the exclusion or interruption of other citizens in their individual right of use thereof (excepting the national guard and the police and fire departments), are forbidden, unless written notice of the object, time, and route of such procession or parade be given by the chief officer thereof, not less than six hours previous to its forming or marching, to the police authorities of the city; and it may be lawful for said

Id. §2.
Certain parades
and processions
forbidden, ex-
cept upon
notice, etc.

Escort to be
furnished.

police authorities to designate to such procession or parade how much of the street in width it can occupy, with especial reference to crowded thoroughfares, through which said procession may move; and when so designated, the chief officer of said procession or parade shall be responsible that the designation is obeyed; and it shall be the duty of the police authorities to furnish such escort as may be necessary to protect persons and property and maintain the public peace and order.

Id. §3,
as amended
1880, ch. 42, §1.
Forbidden on
Sunday.

§ 1941. All processions or parades on Sunday, in any street or public place of the city, excepting only funeral processions engaged in the actual burial of the dead, and processions to and from any place of worship in connection with a religious service there celebrated, are forbidden; and in no such excepted case shall there be any music, fireworks, discharge of cannon or fire-arms, or other disturbing noise; provided that in any military or grand army of the republic funeral, music may be played while escorting the body to and from such places, but such music shall not be played within one block of any place of worship where worship is being celebrated.

Fireworks, etc.,
prohibited.

Id. §4.

Penalty.

§ 1942. Every person willfully violating any provision of the three preceding sections shall be guilty of a misdemeanor, punishable with a fine not exceeding twenty dollars, or imprisonment not exceeding ten days, or both, at the discretion of the court.

1880, ch. 10,
Comp. 1842.
Railroads in
city of New
York.
43 Barb. 68;
30 How. 121;
51 Barb. 285, 309;
32 How. 481.

§ 1943. It shall not be lawful to lay, construct, or operate any railroad in, upon or along any or either of the streets or avenues of the city, wherever such railroad shall commence or end, except under the authority and subject to the regulations and restrictions which the legislature may have granted since the thirteenth day of January, eighteen hundred and sixty, or may hereafter grant and provide. This section shall not be deemed to affect the operation, as far as laid, of any railroad at such date constructed and duly authorized. Nor shall it be held to impair, in any manner, any valid grant for or relating to any railroad in said city, existing on the first day of January, eighteen hundred and sixty.

1879, ch. 529,
Comp. 1877.

§ 1944. It shall not be lawful to grant, use, or occupy for the purposes of an elevated railroad any portion of the following named streets and places, that is to say, Second avenue below Twenty-third street, Nassau street, Printing House square, so called, south of Frankfort street, Park row, Broadway south of Murray street, Broad street, and Wall street. But nothing herein contained shall be construed to take away any right given by the report of the rapid transit commissioners, so called, or any existing right to cross at an elevation any of said streets, or to affect any act passed before June nineteenth, eighteen

hundred and seventy-nine, restricting the right to use or occupy any of said streets.

§ 1945. It shall not be lawful for any company organized under the provisions of chapter six hundred and six of the laws of eighteen hundred and seventy-five, or under any other act passed before June eighteenth, eighteen hundred and seventy-five, to construct a steam railway upon St. Nicholas avenue, or those streets or avenues in said city commonly known as boulevards, except to cross the same, under such regulations as shall be imposed by the commissioners provided for by said act, and every such company shall be bound by the restrictions and limitations as to its route and as to its mode of construction, which shall be established by the commissioners appointed under the acts from which its powers were derived, as far as such restrictions and limitations are consistent with the provisions of said chapter six hundred and six of the laws of eighteen hundred and seventy-five. The provisions of this section shall not be deemed to apply to any horse street railway existing on June eighteenth, eighteen hundred and seventy-five and theretofore authorized to be constructed.

1875, ch. 606, §41.
Comp. 1856.
Steam railway
not to be con-
structed in cer-
tain streets in
N. Y.

§ 1946. It shall not be lawful for commissioners appointed pursuant to the provisions of chapter six hundred and six of the laws of eighteen hundred and seventy-five or the amendments thereof to locate the route or routes of any railway over, under, through or across Broadway or Fifth avenue, below Fifty-ninth street, Fourth avenue above Forty-second street, in the city of New York, nor over, under, through or across such portions of streets and avenues as are already legally designated for the main line of or occupied by an elevated or underground railway, in actual operation, nor over, under, through or across such as are contained in public parks, nor over, under, through or across such as are occupied by buildings belonging to the county, or to this State, or to the United States.

1875, ch. 606, §4.
Comp. 1843,
as amended
1880, ch. 417.

§ 1947. No stage or omnibus route, or authority to run stages or omnibuses in said city, shall hereafter be granted by the common council, unless a majority of the owners of property upon the street or streets, avenue or avenues, in or upon which any such route or privilege is to be operated, shall, before the common council act on the subject, first consent in writing thereto.

1857, ch. 340, §1.
Comp. 863.
Common coun-
cil to act.

§ 1948. Before any route for the running of omnibuses or stages shall be established or allowed to be operated in said city, except as provided in section nineteen hundred and fifty-one, the application therefor shall be made in writing to the mayor of said city, specifying the route proposed to be established and the number of stages or omnibuses proposed to be run thereon; and unless the said mayor shall communicate such application to the

1854, ch. 142, §14.
Comp. 862.
Licensing of
omnibus and
stages.

common council, with his approval thereof, and a majority of the members elected to such board shall, after receiving such communication and approval, vote in favor thereof, no such route shall be established or operated; and upon such favorable action, such route may be established and operated accordingly, and the ownership thereof may be transferred.

1857, ch. 340, §2,
Comp. 863.
Who to run
stages.

§ 1949. Any stage route or privilege hereafter granted by the common council shall be disposed of at public auction, in the manner now provided by law for the disposal of the franchises of said city, to the bidder who will give the largest sum per annum, with adequate security, to the corporation of said city, for the right or privilege.

1854, ch. 142, §15,
Comp. 862.
Consent, when
and how
terminated.

§ 1950. No consent or authority given, pursuant to the provisions of the last section but one, shall be terminated or altered unless by the concurrence of the votes of two-thirds of all the members elected to the common council, nor unless the mayor shall approve and certify his approval thereto, except that his approval is not necessary to an alteration or extension of route of any company organized under chapter one hundred and forty-two of the laws of eighteen hundred and fifty-four; and when such authority or consent shall be terminated or altered, without the consent of the proprietors of the route, they shall be entitled to receive compensation from the corporation of said city for the damages sustained by them thereby, provided that such action is not in consequence of the violation on the part of the proprietors of such route of the provisions of law, or of such regulations as the said common council may lawfully impose upon such proprietors.

Id. §16.
Stage routes
established
before April 4,
1854.

§ 1951. The provisions contained in the preceding section shall apply to all routes for omnibuses or stages established on or before April fourth, eighteen hundred and fifty-four, in said city; and licenses then in force for omnibuses or stages therein, and any such routes or licenses established or in force shall be deemed to have the approval and consent hereinbefore provided for, and have the same effect as if made or granted pursuant to the preceding provisions, and may be transferred by the owners thereof and operated accordingly. The corporation of said city shall be entitled to demand and receive license fees at the then existing rates, and to take the necessary means to collect the same.

1854, ch. 142,
§17, Comp. 862.
Regulations.

§ 1952. It shall not be lawful to run stages or omnibuses in said city except in conformity with the four preceding sections.

1813, ch. 86, §206,
Comp. 864.
Penalty for
injuring lamps,
windows,
knockers, etc.

§ 1953. If any person shall willfully break, take down, or carry away any glass-lamp hung or fixed in any of the streets of the city of New York, or extinguish the lights therein, or be aiding or abetting in the same, or shall willfully break or deface any glass, window, porch, knocker, or other fixture in the said

city, and shall be thereof convicted before the recorder, or before either of the police justices, either by the confession of the party or by the oath of one or more credible witness or witnesses, he or she shall, for every such offense, pay a fine not exceeding twenty-five dollars, one-half to be paid to the person or persons who shall prosecute for the same to effect. Upon refusal of payment of such fine; it shall and may be lawful for such recorder or justice, before whom such conviction shall take place, to commit such offender to the penitentiary, there to remain without bail for the space of two months, or until such fine and costs are paid; and if any such offense shall be committed by any apprentice or servant, such forfeiture shall be paid by his or her master or mistress, or in default thereof such apprentice or servant, shall be committed to such penitentiary in manner aforesaid.

Id. §207.
On refusal of
payment
offender to be
committed to
penitentiary.

Master liable
for servant.

§ 1954. It shall and may be lawful to and for any sheriff, deputy sheriff, marshal, or member of the police force, who shall see any person commit any of the mischiefs or trespasses aforesaid, if such person or persons shall be unknown to such sheriff, deputy sheriff, marshal, or member of the police force, to seize, secure, and detain such offender so unknown to him as aforesaid, until he can discover the name of such offender, or until the next morning (if the offense shall be committed in the night time and the offender shall refuse to discover his or her name), when such offender shall be brought before the recorder or one of the police justices, who on conviction of such offender shall proceed against him or her in the manner hereinbefore directed; and further, in case any person shall commit any or either of the offenses aforesaid in the presence of such sheriff, deputy sheriff, marshal, or member of the police force, then every such sheriff, deputy sheriff, marshal, or member of the police force, shall forthwith give information thereof to such recorder or either of the police justices, in order that such offender may be convicted thereof and punished.

Id. §208,
Comp. 865.
Offenders
whose names
are unknown,
may be
detained.

Sheriff, etc., to
give informa-
tion of
offenses.

§ 1955. Neither the two preceding sections, nor anything therein contained, shall bar or preclude any person or persons from recovering his, her, or their damages against any other person or persons who shall be guilty of any of the mischiefs or trespasses aforesaid, but the same may be recovered in the same manner as if they had never been passed.

Id. §209.
These pro-
visions no bar
to suit for
damages.

§ 1956. Every person who shall or may be present when any of the mischiefs or trespasses in the three preceding sections mentioned shall be committed, shall be deemed to be guilty thereof, and be subject to the penalties inflicted therein, although he or she shall not be aiding, abetting, or assisting therein, unless such person shall give evidence whereby to convict

Id. §210.
Who to be
deemed guilty.

the person or persons really guilty thereof, or unless he or she shall declare upon oath that he or she came there accidentally, and that he or she doth not know who the offender or offenders is or are.

1813, ch. 86,
§211, Comp. 865.
Informers not
liable for
penalty.

§ 1957. If two or more persons shall have been jointly concerned in committing any of the offenses aforesaid, and one or more of them (not being before informed against) shall, within the space of one month after the offense committed, inform against any or all the other or others concerned in the same offense so as to convict him, her, or them, the person so informing shall not be liable to the payment of the fine hereinbefore mentioned, but shall, notwithstanding his or her offense, be entitled to the reward hereinbefore allowed to informers, anything hereinbefore contained to the contrary thereof in anywise notwithstanding.

1867, ch. 806,
§27, Comp. 267.
No obstructions
around
landing of
staircases of
Harlem bridge.

§ 1958. It shall not be lawful to place, or cause to be placed, any obstruction or impediment at or around the landing of the staircases at the terminus at each end of the Harlem and Coles' bridge, the creation at which shall be deemed a misdemeanor, punishable, on conviction, by a fine of not more than twenty-five nor less than ten dollars. And the police department is hereby charged with the execution of the provisions of this section.

1861, ch. 316.
Owners may
lay out parks,
etc.

§ 1959. The owners of property situate on East Forty-second street, between First and Second avenues, are authorized to lay out, sod and cultivate two small parks on East Forty-second street, between said named avenues, and to inclose said parks with an iron railing; the said work and improvement to be done at the expense of said owners and under the direction of and according to plans approved by the commissioner of public works of said city. Said parks when laid out shall be maintained and kept in good order by said owners without expense to and continue only during the pleasure of the mayor, aldermen, and commonalty of said city of New York.

Not to be ex-
pense to city.

1881, ch. 289,
§§1, 3.
Upon railroad
company
filing bond to
pay half the
cost, city to
construct iron
bridge.

§ 1960. Upon the New York and Harlem Railroad Company filing with the comptroller a bond to pay one-half of the cost thereof when the same shall be completed, it shall be the duty of the mayor, aldermen and commonalty of the city of New York to construct an iron bridge for foot passengers and carriages over Fourth avenue at Ninety-seventh street at an elevation above the railroad at least equal to that of the bridges now spanning said avenue at Forty-fifth and Forty-eighth streets. Such bridge to be constructed upon plans and specifications to be approved by the commissioner of public works, and it shall be the duty of said commissioner to cause such bridge to be constructed as soon as practicable after the filing of said bond. The

Plans, etc.

grade of Ninety-seventh street shall be conformed to the elevation required for said bridge.

§ 1961. Fourth avenue at Ninety-eighth street shall not be crossed by foot passengers or carriages on the level of the railroad, but Ninety-eighth street shall be closed for that purpose at the easterly and westerly lines of said avenue.

Fourth avenue closed to foot passengers, etc.

Title 2.—Establishing and Altering Grades.

§ 1962. The grades of the streets and avenues as fixed and established south of Sixty-third street in said city, or which shall be hereafter fixed and established by the common council north of Sixty-second street, shall not be changed or altered except as hereinafter provided. Whenever an application shall be made to change or alter the grade of any street or avenue established before said date south of Sixty-third street, or which since said date has been or may hereafter be established north of Sixty-second street, in whole or in part, or if at any time the common council shall deem it expedient to alter or change any such grade in whole or in part, it shall be the duty of the commissioner of public works to give notice of such application or intention, and the said notice shall be published in the "City Record," and when authorized in accordance with the provisions of section sixty-six of this act, in four daily newspapers in said city for ten days before it shall be lawful for the said common council to take any action upon such application, or upon such proceeding for the change of such grade; and it shall not be lawful for the said common council to alter or change, in whole or in part, the grade of any street or avenue in said city, established on or before March four, eighteen hundred and fifty-two, south of Sixty-third street, or which has been established since that date, or which may hereafter be established north of Sixty-second street, except upon the written consent of the owners of at least two thirds of the land in lineal feet fronting on each side of the street or avenue opposite to and adjoining that part thereof, the grade of which is to be changed or altered. And hereafter, whenever the said common council shall propose to establish, change, or alter the grade of any street or avenue of said city, north of Sixty-second street, like notice of such intention shall be published as provided for in this section. But nothing in this section contained shall apply to any street or avenue comprised in the district referred to in the next section. The commissioner of public works shall have the special powers enumerated in section three hundred and thirty-nine with reference to the streets therein referred to.

1852, ch. 52, §§1, 2, Comp. 657, 64 N. Y. 806, 21 Hun, 533. Grades of certain streets not to be altered. Hilt. 358; 5 Bosw. 414; 43 N. Y. Supr. 428; 45 Id. 599; 54 How. 439. Notice of application for any change of grade to be published

Written consent of two-thirds of owners necessary.

Streets north of Sixty-second street.

§ 1963. The commissioner of public works shall have and possess exclusive power to alter and amend the grades which

1867, ch. 697, §§1, 2,

Comp. 659, 1009.
1873, ch. 872, §7,
Comp. 903.
Commissioner
of public works
to have control
of certain
streets, etc.
68 N. Y. 246;
4 Hun. 461;
64 N. Y. 661;
55 N. Y. 480;
4 Daly, 385;
49 How. 405;
50 N. Y. 498;
54 How. 313;
52 How. 140;
21 Hun. 533.

Maps of streets,
what to show
and where filed.

1867, ch. 697, §3,
Comp. 659, 1009.
Maps to be
final.
6 Daly, 18;
62 N. Y. 623, 624;
3 Hun. 755.

Damages, how
to be paid.

1866, ch. 367, §2,
Comp. 1004.

existed on April twenty-fourth, eighteen hundred and sixty-seven, in any street, avenue or road then existing and still remaining, and to establish new grades for all streets, avenues or roads that were laid out and established or retained within that part of the city, which is bounded as follows: Northerly by the southerly side of One Hundred and Fifty-fifth street, easterly by the westerly side of Eighth avenue, southerly by the southerly side of Fifty-ninth street, and westerly by the Hudson river; and also within a space three hundred and fifty feet in width surrounding the Central park. The said commissioners shall in all cases of the establishment by him of grades for streets, avenues or roads, cause to be made two similar maps or plans, showing the grades that shall be amended or established by him for the streets, avenues, and roads, and said maps or plans when so made, shall be certified by one of the officers of the department of public works, to be designated by said commissioner for such purpose, and one of said maps shall be filed by said commissioner of public works in and remain of record in his office, and the other shall remain of record in the department of public parks. The maps or plans, when made and filed as aforesaid, shall be final and conclusive, as well in respect to the mayor, aldermen and commonalty of the city of New York, as in respect to the owners and occupiers of lands, tenements and hereditaments, within the boundaries aforesaid, and in respect to all other persons whomsoever, with the same intent and effect as if the same had been laid out and established by the commissioners appointed in and by the act entitled "An act relative to improvements touching the laying out of streets and roads in the city of New York, and for other purposes," passed April third, eighteen hundred and seven. All damage to any land or to any building or other structure thereon, existing on the twenty-fourth day of April, eighteen hundred and sixty-seven, or any street, avenue or road laid out on the map of the city of New York, within the district specified in this section by reason of altering the grade of such street, shall be ascertained and paid in the manner specified in section eight hundred and seventy-three of this act. And whenever said commissioner shall deem it proper so to do, he may file maps, plans or surveys in the manner before provided, showing the grades for the streets, avenues and roads within any particular section of the district mentioned.

§ 1964. Whenever the grade of any street, road or avenue, or part of any street or avenue, shall after April fourth, eighteen hundred and sixty-six, have been or shall be fixed, established or changed by the commissioners of the Central park, or the department of public parks, or the commissioner of public works

when acting as the successor of said commissioners in executing powers originally conferred upon them, such grade shall not be thereafter changed, unless the owners of two-thirds of the land in lineal feet fronting upon the street, avenue or road, or part of such street, avenue or road, where such change is proposed to be made, shall first consent in writing to such change of grade, and file their consent in the office of the department of public parks or the commissioner of public works as the case may be. And upon such consent being so filed, such grade may be changed by said department or commissioner, if it or he shall deem it expedient to make such change, and if any such change of grade shall be so made by said department or commissioner it or he shall cause maps, plans or surveys showing such changes of grade as may be so made, to be filed in the said department or the office of said commissioner as the case may be.

1867, ch. 697, §5,
Comp. 1011.

§ 1965. Nothing of this title contained shall be deemed to affect the powers conferred upon the department of public parks, with reference to grades by sections six hundred and seventy to six hundred and seventy-four, inclusive, of this act, nor those conferred upon the commissioner of public works by sections three hundred and thirty six and three hundred and thirty-nine to three hundred and forty-two, inclusive.

Title 3—Ferries and Bridges.

§ 1966. No person, other than the mayor, aldermen, and commonalty or by their authority, shall erect or keep a ferry between the city of New York and Long Island, for the carrying or bringing of any passengers, horses, cattle, hogs, sheep, goods, merchandise, or other things whatsoever, over the said ferry with or without any hire or reward, under the penalty of one hundred and twenty-five dollars for every such offense.

1813, ch. 86, §53,
Comp. 1250.
No person but
corporation of
New York to
keep a ferry be-
tween said city
and Nassau
Island; under a
penalty.

§ 1967. The Union Ferry Company is required to run a boat from the foot of Catharine street in the city of New York, to the foot of Main street, in the city of Brooklyn, once in every fifteen minutes up to twelve o'clock P. M., and once in every half hour from that time until five o'clock A. M.

1871, ch. 99,
Comp. 1251.
Number of trips
to be made.

§ 1968. The company, corporation, and persons owning or managing the ferry run and operated between Bridge street, in the city of Brooklyn, and a point situated between James street and New Chambers street, in the city of New York, are required to run and operate said ferry that the boats on said ferry shall make a trip and passage each way between the points aforesaid as often as once in every fifteen minutes, between the hours of five o'clock in the forenoon and ten o'clock in the evening of

1872, ch. 228,
§§1, 2,
Comp. 1252.
How often
boats to be
run.

every day. Any deviation from the requirements aforesaid, caused by ice, wind, tide, or unavoidable accidents, shall not be a violation of such requirements and directions.

1872, ch. 188, §1,
Comp. 1251.
Ferry-boats to
be provided.
See 1875, ch. 615.

§ 1969. The lessee or his assigns of the ferry across the East river from the foot of Tenth street, in the city of New York, to Greenpoint, in the city of Brooklyn, must provide and navigate upon said ferry two good and substantial steam ferry boats, which shall be run in such manner that one of said boats shall leave each slip as often as once every fifteen minutes between the hours of five o'clock in the morning and nine o'clock in the evening, and every hour from nine o'clock in the evening until one o'clock in the morning.

How to be run.

Id. §2.
Ferry-boats to
be provided.

§ 1970. The lessee or his assigns of the ferry across the East river, from the foot of Twenty-third street, in the city of New York, to Greenpoint, in the city of Brooklyn, must provide and navigate upon such ferry two good and substantial steam ferry boats, which shall be run in such manner that one of such boats shall leave each slip as often as once every fifteen minutes between the hours of five o'clock in the morning and nine o'clock in the evening, and every half hour from nine o'clock in the evening until one o'clock in the morning.

How to be run.

1872, ch. 188, §8,
Comp. 1252.
Penalty for
failure.

§ 1971. If the lessee or his assigns of either of said ferries mentioned in the two preceding sections, shall fail to comply with the said provisions, it shall not be lawful for such lessee or his assigns to charge or receive more than the following rates of ferriage, to wit: For each foot passenger, two cents; each one-horse carriage, with horse and driver, fifteen cents; each two-horse carriage, with horses and driver, twenty cents. And if in such case the said lessee or his assigns, or any person in the employ of said lessee or his assigns shall demand or receive any higher rates of ferriage than those established by this section, the said lessee or his assigns shall forfeit to the party aggrieved, the sum of twenty-five dollars for each and every offense, to be recovered before any justice of the peace, or in any court of the State having cognizance thereof. Any deviation from the requirements of said sections caused by ice, wind, tide, or unavoidable accidents shall not be held to be a violation of such requirements and directions.

Rates of fare.

Penalty.

1875, ch. 615,
§§1, 2.
Comp. 1256.
Ferriage for
foot passen-
gers, vehicles,
etc.

§ 1972. It shall not be lawful for any person or corporation operating any ferry along that portion of the city of New York between Houston and Thirty-fourth streets and the seventeenth ward of the city of Brooklyn to charge, collect or receive ferriage at a higher rate than three cents for each foot-passenger, during any portion of the day or night. The rates for wheel vehicles of all kinds, and for neat cattle, sheep and hogs, on all such ferries, shall not exceed those at present charged,

collected and received. Such persons or corporations operating any such ferry shall provide and navigate on each separate ferry between said places good and substantial steam ferry boats, which shall be run in such manner that one of said boats shall leave the slips as often as once in every fifteen minutes between the hours of six o'clock in the morning and nine o'clock in the evening, and between the hours of nine in the evening and midnight, once in every thirty minutes; and the boats running between Twenty-third street, New York, and the said seventeenth ward of Brooklyn, shall continue to run after midnight, and until six o'clock in the morning, once in every thirty minutes.

Time for boat
to leave slip.

§ 1973. If any such persons or corporations operating any such ferry, shall demand and receive any higher rate of ferriage for foot-passengers than prescribed in the preceding section, or for wheel vehicles, neat cattle, sheep and hogs, any higher rate than was on June twenty-first, eighteen hundred and seventy-five, established, or shall omit to run boats within the hours and time therein specified, when the same can be done with safety, any such person or corporation shall forfeit and pay to any person aggrieved the sum of fifty dollars for each and every offense, to be recovered before any justice of the peace in any court having cognizance thereof; and framed copies of this and the preceding section, and of the ferry rates for other than foot-passengers, shall be printed in clear and legible type, and suspended within view of the several offices and waiting-rooms of the ferries above described.

Id. §3.
Penalty.

Recovery of
penalty.

§ 1974. It shall not be lawful for any person or corporation, operating any ferries between the city of New York and that portion of Brooklyn lying along the East river between the Navy Yard and Bushwick creek (except the Roosevelt street ferry) to charge, collect, or receive ferriage at higher rates than as prescribed by this section; which are hereby established as the legal rates of ferriage upon the aforesaid ferries, that is to say: For each one-horse buggy, wagon, gig or sulky, twenty cents; for each one-horse business wagon, cart or truck with driver, empty or with ordinary load not exceeding ten feet in length, fifteen cents; for each two-horse pleasure carriage, twenty-five cents; for each two-horse truck with driver, loaded with ordinary load of sugar, distillery products, rope, flour, or empty, thirty-five cents; and for the same with extra load, fifty cents; for each two-horse business wagon and driver, empty or loaded, not exceeding seventeen feet in length, thirty cents; for each two-horse market wagon and driver, loaded, thirty-five cents, for the same empty, thirty cents; for each one-horse market wagon and driver, loaded, twenty-five cents, and empty,

1872, ch. 855, §1.
Comp. 1254.
Rates of ferriage between N. Y. and that part of Brooklyn between Navy Yard and Bushwick creek.
See 1875, ch. 615.

twenty cents. And the rates of fare for each foot passenger shall not exceed two cents on any of the aforesaid ferries.

1872, ch. 153, §2,
Comp. 1235.
Rates now
charged by
New York and
Brooklyn Ferry
Company
legalized.

§ 1975. The rates of fare or ferriage charged on the twenty-fifth day of May, eighteen hundred and seventy-two, by the New York and Brooklyn Ferry Company for the transportation of persons, vehicles or property between the cities of New York and Brooklyn, upon and over the several ferry routes then run and operated by said ferry company, are established as the legal rates for ferriage or transportation over said ferry routes, except as reduced by the preceding section; and it shall not be lawful for any corporation or person who may run or operate said ferries, to charge, collect or receive any greater rates of fare or ferriage for the carriage of persons, vehicles or property upon or over the said ferries, than such as are allowed and established by the provisions of this and the last preceding sections.

Id. §3.
Not to apply to
Roosevelt
street ferry.

§ 1976. Said rates of fare or ferriage shall not apply to or affect the ferry running from, at or near Broadway, Brooklyn, E. D., to or near Roosevelt street, New York, commonly known as the Roosevelt street ferry, but the rates of fare or ferriage charged on said date for the transportation of persons or property over said ferry shall be and continue the legal rates of ferriage thereon, provided always that ten foot-passenger tickets shall at all times be sold at the ferry boxes at the entrances to said ferry for twenty-five cents.

Id. §4.
How N. Y. and
B. Ferry Co. re-
quired to run
boats on all fer-
ries operated
by them.

§ 1977. The New York and Brooklyn Ferry Company are required to run their boats on all ferries operated by them all night, and after the hour of twelve o'clock at night, and before five o'clock in the morning, as often as once in thirty minutes, and as often as once every eight minutes from each terminus from half-past five o'clock to nine o'clock every morning, and from half-past four until seven o'clock every evening, and once every ten minutes during the remainder of the day, except upon the Sabbath, when said company shall run their boats on all ferries as often as once every twelve minutes, between the hours of seven o'clock in the morning and the same hour in the evening.

1875, ch. 300, §1,
Comp. 1236.
Id. §3.
Bridge declared
a public high-
way.

§ 1978. The bridge in the course of construction over the East river, between the cities of New York and Brooklyn shall, when completed, be a public highway for the purpose of rendering the travel between the cities of New York and Brooklyn certain and safe at all times, subject, nevertheless, to such tolls and prudential and police regulations as the trustees thereof shall from time to time establish and prescribe.

1875, ch. 300, §5,
Comp. 1238.

§ 1979. Said trustees may make and establish, from time to time, ordinances and laws under reasonable penalties, to be re-

covered on their behalf and in their name by the title of "The Trustees of the New York and Brooklyn Bridge" in any court, in the city and county of New York or county of Kings, having jurisdiction of justices of the peace, regulating the use of the said bridge and the travel over the same by persons, vehicles and animals, and for the protection thereof and all appurtenants thereto; and may keep and maintain the said bridge in good and proper condition; and in case of injury or damage thereto, may repair and restore the same.

Repairs.

§ 1980. The said trustees shall have power to fix the rates of toll for persons, vehicles, and animals of every kind and description, passing over the said bridge; and may operate and authorize to be operated, a railroad or railroads over said bridge, and fix the fare to be paid by any passenger on any railroad operated by them.

Id. §7.

Toll, rate of.

Railroads over bridge.

§ 1981. Concurrent jurisdiction shall be possessed by the courts of the city and county of New York and of the city of Brooklyn and the county of Kings respectively, and by the judicial and administrative officers of the said cities and counties respectively, over all crimes and offences committed upon said bridge. It shall be the duty of the said trustees to appoint, and they are hereby authorized to appoint an adequate police force, and to regulate and direct the same for the protection of the said bridge, and of the travel over the same, and of all persons, vehicles, railroad cars and animals using or passing over the same; and the policemen so appointed shall have and possess all the powers of policemen of the cities of New York and Brooklyn. The compensation of the said policemen shall be fixed by the said trustees, and shall be a charge against said bridge and paid by said trustees.

Id. §8.

Courts, concurrent jurisdiction of.

Police force, appointment of.

Powers and compensation of.

§ 1982. Any person wilfully doing any injury to the said bridge or any of its appurtenances shall forfeit and pay to the said trustees three times the amount of such injury, and shall be deemed guilty of a misdemeanor, and be subject to a penalty not exceeding five hundred dollars, and to imprisonment not exceeding six months, in the discretion of the courts.

Id. §9.

Willful injury to bridge, a misdemeanor.

Penalty.

Title 4.—Auctions and Auctioneers.

§ 1983. All sales at public auction in the city of New York, not under the authority of the United States, shall be made by an auctioneer who shall have given the security hereinafter required, or by a copartner or clerk of an auctioneer duly authorized under the provisions of this title. Goods damaged at sea and sold for the benefit of the owners or insurers, shall be sold under the direction of the wardens of the port.

1 R. S. ch. 17, title 1, §§6, 9, Comp. 871.
Sales, by whom made.

Goods damaged at sea.

1867, ch. 405, §5,
Comp. 873.
1871, ch. 515, §8,
Comp. 875.
Warden to
attend sales.

§ 1984. It shall be the duty of the board of port-wardens, or some one of the members thereof, to attend, personally, all sales of vessels, when condemned, vessels' materials, and goods in a damaged state, which shall be sold at public auction in the port of New York, by reason of such damage, for the benefit of owners or underwriters, or for account of whom it may concern; and it shall be the duty of auctioneers making such sales to give due notice thereof to said board before the sale, and all such sales shall be made by auctioneers under the direction and by order of the wardens, for which service they shall be entitled to receive a commission of one-half of one per cent. on the gross amount of sales thereof, to be paid to such board of wardens on demand, by the auctioneer making such sale, and such property shall be exempt from the payment of auction duties to the State; and it shall be the duty of auctioneers to make monthly statements under oath to said board, specifying the total amount of each day's sale made by them under this act, which statement shall be filed in said warden's office, and the wardens, when required by the owner or consignee thereof, shall certify the cause of such damage, the amount of such sale, and the charges on the same, all of which shall be recorded in the books of said office. The books of such auctioneers shall be open at all times to the inspection of the board of port-wardens.

1863, ch. 133, §3,
Comp. 874.

§ 1985. All auctioneers doing business in the city shall hereafter be required, between the first and tenth of June, in each and every year, to obtain from the mayor of said city a license to engage in and carry on such business and occupation, upon filing a bond with two good securities in the penal sum of two thousand dollars.

1846, ch. 62,
§§ 5, 6, 7,
Comp. 872.
Duty of auc-
tioneers in New
York.

§ 1986. Every auctioneer shall, within ten days after the bond required by law shall have been executed, and the certificate required by law indorsed thereon, file a copy thereof, and also a copy of said certificate, certified by the officer taking the bond, with the clerk of the city and county of New York. The clerk shall keep a book or books, with an index alphabetically arranged, in which he shall cause to be recorded every bond so filed, for which he shall be entitled to a fee of fifty cents for every bond so filed, to be paid by the party executing such bond. Every auctioneer neglecting to file such certified copy within the time herein specified, shall forfeit for every such neglect the sum of one hundred dollars, such penalty to be sued for and recovered by the district attorney, and when recovered to be paid into the treasury of the State.

Duty of county
clerk.

Penalty for
neglect.

1 R. S., ch. 17,
title 1, §21,
as amended
1885, ch. 62,
Comp. 871.

§ 1987. Every auctioneer shall, under his own proper name, give previous notice in one or more of the public newspapers printed in the said city, of every auction sale that shall be law-

fully made by him; and in case he shall be connected with any person or firm, his name shall in all cases precede separately and individually the name of such person or the title of the firm under which he transacts business.

Notice, how to be given.

§ 1988. Every auctioneer, copartner, or clerk of an auctioneer, and every other person whomsoever in the city of New York, who shall advertise a sale by auction in any other manner than the one prescribed in the foregoing section, or shall be concerned in any sale by auction not advertised in the aforesaid manner, shall, on conviction thereof, forfeit the sum of five hundred dollars for each offense, and be also subject to imprisonment at the discretion of the court in which he shall be tried; but such imprisonment shall not exceed six months.

Id. §32.
Penalty.

§ 1989. Every auctioneer, within ten days after he shall have exhibited his account, shall pay for the use of this State the duties accrued on the sales mentioned in the account, and immediately after such payment shall deliver or transmit such account, with the affidavits indorsed thereon and annexed thereto, to the comptroller, to be filed in his office.

Id. §32,
as amended
1843, ch. 86.
Duties, when to be paid.

§ 1990. Every such payment made by an auctioneer shall be made to such bank in the city of New York as shall be designated by the comptroller as entitled to the State deposits according to law, and the receipt of the proper officer of the bank shall be taken therefor.

Id. §33.
Comp. 872.
Payments, where to be made.

§ 1991. All sales of goods by public auction in the city of New York by an auctioneer shall be made in the day-time, between sun-rise and sun-set, excepting—

Id. §34.
Sales in New York.

1. Books or prints.

2. Goods sold in the original package, as imported, according to a printed catalogue, of which samples shall have been opened and exposed to public inspection, at least one day previous to the sale.

Every auctioneer who shall violate the provisions of this section shall be deemed guilty of a misdemeanor.

Penalty.

§ 1992. Any auctioneer who shall hereafter make or cause to be made any false or fraudulent representations or statements in respect to the character of such sale or the party authorizing the same, or the quality, condition, ownership, situation, or value of any property, real or personal, exposed, put up, or offered by him for sale at public auction, or who shall put up or offer for sale any property, real or personal, in respect to which any false or fraudulent statement or representation shall have been made by him, or to his knowledge, as to the character of such sale or the party authorizing the same, or as to the quality, condition, ownership, situation, or value of such property, shall be deemed guilty of a misdemeanor, and on conviction thereof, shall be

1871, ch. 515, §1.
Comp. 874.
False or fraudulent statements deemed a misdemeanor.
See 1868, ch. 133.

punished by imprisonment not exceeding one year or by a fine not exceeding one thousand dollars.

Id. §2.
Recovery of
penalty from
auctioneer, by
action at law.

§ 1993. Any person who shall purchase any property at public auction in respect to which any false or fraudulent representation or statement as to the character of such sale or the party authorizing the same, or as to the quality, condition, ownership, situation, or value of such property, shall have been made to his knowledge, may sue and recover from the auctioneer conducting such sale, or in whose name it shall have been conducted, a penalty of five hundred dollars in addition to any damages sustained by him by reason of such false or fraudulent statements or representations.

1858, ch. 138, §4.
Comp. 874.

§ 1994. The mayor, on the complaint of any person having been defrauded by any auctioneer, or the clerk, agent or assignee of such auctioneer doing business in the city and county of New York, is hereby authorized and directed to take testimony under oath relating thereto; and if the same charge shall, in his opinion, be sustained, then he shall revoke the license granted, and commit the parties for trial according to law, and direct the bonds to be forfeited.

1879, ch. 519, §1.
Comp. 876.
Auctioneers'
fees on judicial
sales.

§ 1995. No auctioneer shall hereafter demand or receive for his services, in selling at public auction, any real estate directed to be sold by any judgment or decree of any court of this State, a greater compensation or fee than fifteen dollars for each parcel separately sold; but where such sale is made at any public salesroom, said auctioneer may demand and receive such further amount not exceeding two dollars for each parcel separately sold as he may have actually paid for the privilege or right of making said sale in such salesroom as aforesaid, but where one or more lots are so sold at public auction with the privilege to the purchaser of taking one or more additional lots at the same rate or price, nothing herein contained shall be construed to prevent the auctioneer making such sale from demanding and receiving for his services the compensation or fee above allowed, for each additional lot taken by said purchaser under such option or privilege.

Id. §2.
Comp. 876.
Fees or compensation not
to be divided.

§ 1996. No fees or compensation which any auctioneer receives, or is entitled to receive, on any sale under the provisions of the preceding section shall be divided with, or any portion thereof, either directly or indirectly, allowed or paid to, the receiver, referee, sheriff, or other officer under whose direction such sale is made, or to any of the attorneys in the action or proceedings.

Id. §3.
Penalty.

§ 1997. Any person who shall violate any of the provisions of the two preceding sections shall be deemed guilty of a misdemeanor, and shall, upon conviction, be punished by a fine of not

less than two hundred and fifty dollars, and not exceeding five hundred dollars for each offense, and also by the revocation of his license as auctioneer.

Title 5.—Amusements.

§ 1998. It shall not be lawful to exhibit to the public in any building, garden or grounds, concert room or other place or room within the city, any interlude, tragedy, comedy, opera, ballet, play, farce, minstrelsy, or dancing, or any other entertainment of the stage, or any part or parts therein, or any equestrian, circus, or dramatic performance, or any performance of jugglers, or rope dancing, or acrobats, until a license for the place of such exhibition for such purpose shall have been first had and obtained, as hereinafter provided.

1872, ch. 836, §1.
Comp. 848.
Public exhibitions prohibited unless licensed.
67 N. Y. 23;
3 Hun, 81.

§ 1999. The mayor of the city of New York is hereby authorized and empowered to grant such license, to continue in force until the first day of May next ensuing the grant thereof, on receiving for each license so granted, and before the issuing thereof, the sum of five hundred dollars; and every manager or proprietor of any such exhibition or performance who shall neglect to take out such license, or consent, or cause, or allow any such exhibition or performance, or any single one of them without such license, and every person aiding in such exhibition, and every owner or lessee of any building, part of a building, garden, grounds, concert room, or other room or place, who shall lease or let the same for the purpose of any such exhibition or performance, or assent that the same be used for any such purpose, except as permitted by such license, and without such license having been previously obtained and then in force, if the same shall be used for such purpose, shall be subjected to a penalty of one hundred dollars for every such exhibition or performance, which penalty the society for the reformation of juvenile delinquents in said city is hereby authorized to prosecute, sue for, and recover for the use of the said society in the name of the people of the State of New York.

Id. §2.
Mayor to grant licenses.

Penalty for exhibiting without license.

Penalty, how recovered and disposed of.

§ 2000. The said mayor is hereby authorized to grant licenses for said exhibitions or performances for any term less than one year, and in any case where such license is for a term of three months or less, the said mayor is hereby authorized to commute for a sum less than said five hundred dollars, but in no case less than two hundred and fifty dollars for a theatre, or one hundred and fifty dollars for a circus, concert room, or other building or place whatsoever.

Id. §3.
Licenses for three months or less.

§ 2001. Upon granting every such license authorized by this title, the said mayor shall receive from the person to whom the

Id. §4.
Disposition of fees.

same shall be granted the amount payable for said license, as above provided, which amounts as respectively received by him shall be paid over to the treasurer of the society for the reformation of juvenile delinquents in the city of New York, for the use of said society.

1872, ch. 836, §5.
Comp. 849.

License,
how revoked.

Effect of
revocation.

Id. §6.
Violating Pro-
visions of this
title, how
punishable.

Id. §7.
Duty of police.

Id. §8.
In case of vio-
lation, who
may proceed
by injunction.

§ 2002. Any license provided for by the four preceding sections may be revoked and annulled by any judge or justice of any court of record in said city, upon proof of a violation of any of the provisions of this title; such proof shall be taken before such judge or justice upon notice of not less than two days, to show cause why such license should not be revoked; said judge or justice shall hear the proofs and allegations in the case, and determine the same summarily; and no appeal shall be taken from such determination; and any person whose license shall have been revoked or annulled shall not thereafter be entitled to a license under the provisions of said sections; on any examination before an officer, pursuant to a notice to show cause as aforesaid, the accused party may be a witness in his own behalf.

§ 2003. Any person violating any of the provisions of sections nineteen hundred and ninety-eight and nineteen hundred and ninety-nine shall be deemed guilty of a misdemeanor, and upon conviction shall be punished by imprisonment in the penitentiary for a term not less than three months nor more than one year, or by a fine not less than one hundred dollars nor more than five hundred dollars, or by both such fine and imprisonment.

§ 2004. It shall be the duty of every chief of police, sheriff, deputy sheriff, constable, captain of police, policeman, and every other police officer, to enter, at any time, said places of amusement and to arrest and convey any person or persons violating any provisions of sections nineteen hundred and ninety-eight and nineteen hundred and ninety-nine forthwith, before any police justice, or recorder or magistrate, having jurisdiction in said city, there to be dealt with according to law.

§ 2005. In case any person shall open, or advertise to open, any theatre, circus, or building, garden or grounds, concert room or other place for any such exhibition or performance in said city, referred to in section nineteen hundred and ninety-eight, without first having obtained license therefor, as provided for by section nineteen hundred and ninety-nine, it shall and may be lawful for the said society for the reformation of juvenile delinquents in the said city to apply to the supreme court, or any justice thereof, for an injunction to restrain the opening thereof, until he shall have complied with the requisitions of said section in obtaining such license, and also with such order as to costs as such court or justice may deem just and proper to make; which injunction may be allowed, upon a

complaint to be in the name of said society, in the same manner as injunctions are now usually allowed by the practice of said court. Any injunction allowed under this section may be served by posting the same upon the outer door of the theatre, or circus, or building wherein such exhibitions may be proposed to be held, or if the same shall be in a garden or grounds, then by posting the same at, or on, or near the entrance way to any such place or exhibition; and in case of any proceeding against the manager or proprietor of any such theatre, circus, or building, or garden or grounds as aforesaid, it shall not be necessary to prove the personal service of the injunction, but the service hereinbefore provided shall be deemed and held sufficient.

1839, ch. 13, §3.
Comp. 846.

Notice of injunction, how to be given.

§ 2006. The provisions and requirements of sections nineteen hundred and ninety-eight to two thousand and five, inclusive, shall not be held to apply to any building, hall, room or rooms, in which only private theatricals, tableaux, and other exhibitions for charitable and religious purposes are given, nor to the manager or managers of exhibitions given by amateurs for the benefit of any church, mission, parish or Sunday school, or for any other charitable or religious purpose, nor shall the same be held to apply to the masonic temple in New York, or the trustees of the masonic hall and asylum fund, so long as the revenues of said temple shall continue to be applied to the use of the masonic hall and asylum fund, or other charitable purpose, nor to the Young Men's Hebrew Association of Harlem, or to the directors or officers of said association as such, with respect to any building, not more than one, which shall in whole or in part be owned or leased by said association, while so owned or leased, so long as the revenue thereof shall continue to be applied to the support of said association, and to the religious, charitable, social, educational, or literary purposes of said association.

1872, ch. 836, §3.
as amended
1876, ch. 116, §1.
Comp. 849.

Charitable and religious exhibitions excepted.

1880, ch. 590, §1
Young Men's Hebrew Association of Harlem.

§ 2007. It shall not be lawful to exhibit, on the first day of the week, commonly called Sunday, to the public, in any building, garden, grounds, concert room, or other room or place, within the city and county of New York, any interlude, tragedy, comedy, opera, ballet, play, farce, negro minstrelsy, negro or other dancing, or any other entertainment of the stage, or any part or parts therein, or any equestrian, circus, or dramatic performance, or any performance of jugglers, acrobats, or rope dancing. Any person offending against the provisions of this section, and every person aiding in such exhibition by advertisement or otherwise, and every owner, or lessee of any building, part of a building, ground, garden, or concert room, or other room or place, who shall lease or let out

1860, ch. 501, §§1, 2, Comp. 851.
No exhibitions to be given on Sunday.
69 N. Y. 557;
8 Daly, 276;
52 How. 267; 10 Abb. N. S. 216.

Persons exhibiting or leasing to others to exhibit it, guilty of a misdemeanor.

the same for the purpose of any such exhibition or performance, or assent that the same be used for any such purpose, if the same shall be used for such purpose, shall be guilty of a misdemeanor, and in addition to the punishment therefor provided by law, shall be subjected to a penalty of five hundred dollars, which penalty the society for the reformation of juvenile delinquents in said city are hereby authorized, in the name of the people of this State, to prosecute, sue for, and recover for the use of said society; in addition to which every such exhibition or performance shall of itself forfeit, vacate, and annul and render void and of no effect, any license which shall have been previously obtained by any manager, proprietor, owner, or lessee, consenting to, causing, or allowing, or letting any part of a building for the purpose of such exhibition and performance.

1829, ch. 270,
§11, 2, as
amended 1858,
ch. 359, Comp.
851.
Masquerades,
etc., prohibited.

§ 2008. It shall not be lawful for any proprietor, manager, or keeper of any theatre, circus, public garden, public house, public hall or premises, or other place of public meeting, resort, or amusement whatsoever within the city, for admission to which any price or pay is demanded, to allow or permit in the same any masquerade or masquerade ball, or any assemblage of persons masked. Any person offending against the provisions of this section shall be guilty of a misdemeanor, punishable by a fine of not less than two thousand five hundred dollars, nor of more than five thousand dollars, or by imprisonment in any prison in this State for a term of not less than six nor for more than twenty-four months, or both.

Penalty.

1850, ch. 48,
§§1, 2, 3,
Comp. 860.
Minors under
age of 14 years
not to be ad-
mitted unless
with adult
person.
Penalty for vio-
lating a misde-
meanor.
Fines to be paid
to society juve-
nile delin-
quents.

§ 2009. It shall not be lawful for any owner, lessee, manager, agent, or officer of any theatre in the city of New York to admit to any theatrical exhibition, held in the evening, any minor under the age of fourteen years, unless such minor is accompanied by and is in the care of some adult person. Any person violating the provision of this section shall be guilty of a misdemeanor, and shall be liable to a fine of not less than twenty-five dollars nor more than one hundred dollars, or imprisonment for a term not less than ten nor more than ninety days, for each offense. All moneys recovered under the provisions of this section, for fines, shall be paid over to the treasurer of the society for the reformation of juvenile delinquents in the city of New York, for the benefit of such society.

1862, ch. 281, §2,
Comp. 848.
Selling liquor
prohibited.

§ 2010. It shall not be lawful to sell or furnish any wine, beer, or strong or spirituous liquors to any person in the auditorium or lobbies of any place of exhibition or performance mentioned in section nineteen hundred and ninety-eight, or in any apartment connected therewith by any door, window, or other aperture; nor shall it be lawful to employ or furnish, or permit or assent to the employment or attendance of any female to wait

And female
waiters.

on or attend in any manner, or furnish refreshments to the audience or spectators, or any of them, at any of the exhibitions or performances mentioned in said section, or at any other place of public amusement in the city of New York.

§ 2011. No license shall be granted for any exhibition or performance given in violation of the preceding section, and any and every exhibition or performance at which any of the provisions of the said section shall be violated, shall of itself vacate and annul and render void and of no effect any license which shall have been previously obtained by any manager, proprietor, owner, or lessee consenting to, causing or allowing or letting any part of a building for the purpose of such exhibition and performance.

Id. §3.
In certain cases
no license
given.
In certain cases
annulled.

§ 2012. Any person violating any of the provisions of the two preceding sections, or employing or assenting to the employment or attendance of any person contrary to the provisions of said sections, shall be deemed guilty of a misdemeanor, and upon conviction, shall be punished by imprisonment in the penitentiary for a term not less than three months nor more than one year, or by a fine not less than one hundred dollars, nor more than five hundred dollars, or by both such fine and imprisonment.

Id §4.
Violation of act
a misdemeanor.

§ 2013. It shall be the duty of the superintendent of police, every sheriff, deputy sheriff, constable, captain of police, policeman and every other police officer, to enter at any time said places of amusement, and to arrest and convey any person or persons violating any provision of the three preceding sections, forthwith, before any police justice or recorder or magistrate having jurisdiction in said city, there to be dealt with according to law.

Id §5.
Duty of chief
of police and
other officers.

§ 2014. The owner, lessee, manager, or other person or persons, having charge or control of any theatre shall cause each and every door and means of exit to be used in case of fire or panic to be conspicuously numbered so as to be visible to the audience by whom the same may be used, and shall have or cause to be printed in conspicuous type a plan or diagram, and explanation, showing each of said exits thereon and referring to the numbers aforesaid, and the same shall be printed in conspicuous type as aforesaid on the programme or bill of the play. Any and all persons who shall violate any of the provisions of this section, or fail to comply therewith, or any requirement thereof, shall severally, for each and every violation and non-compliance, respectively forfeit and pay a penalty in the sum of fifty dollars; to be sued for and recovered in the same manner as violations of the building laws in the city of New York are now sued for and recovered by the fire department.

1890, ch. 279, §§1,
2.
Doors to be
numbered and
diagram
printed on
programme.

Penalty for
failure to
comply with
this act.

Title 6.—Pharmacists and Druggists.

1873, ch. 817, §1,
Comp. 852.
Duly registered
pharmacist
only to retail,
compound, or
dispense medi-
cines.

§ 2015. It shall be unlawful for any person, unless a registered pharmacist, known as a graduate in pharmacy, or as a licentiate in pharmacy within the meaning of this title, to open or conduct any pharmacy or store for retailing, dispensing or compounding medicines or poisons in the city or county of New York, except as hereinafter provided.

Id. §2.
Qualifications
of persons to be
registered.

§ 2016. Any person, in order to be registered, shall be either a graduate in pharmacy or a licentiate in pharmacy, or a graduate having a diploma from some legally constituted medical college or society.

Id. §3.
Comp. 853.
Graduates of
pharmacy.

§ 2017. Graduates of pharmacy, within the meaning of this title, shall be those persons who have had at least four years' experience in stores where prescriptions of medical practitioners have been compounded, and who have obtained a diploma from any college of pharmacy within the United States, or from some authorized foreign institution or examining board; and licentiates in pharmacy shall be those persons who have had at least four years' experience in stores where prescriptions of medical practitioners are compounded, and who shall have passed an examination either before the board for the examination of and licensing druggists and prescription clerks in the city of New York, established by an act passed March twenty-eight, one thousand eight hundred and seventy-one, or before the board of pharmacy created by chapter eight hundred and seventeen of the laws of eighteen hundred and seventy-two, and continued by this title, or such foreign pharmacists as shall present satisfactory credentials or certificates of their competency and qualifications to the said board of pharmacy. Junior assistants or apprentices in pharmacy shall not be permitted to prepare physicians' prescriptions until they have become graduates or licentiates in pharmacy.

Licentiates in
pharmacy.

Junior assist-
ants or
apprentices.

Id. §4.
Board of phar-
macy.

§ 2018. The members of the college of pharmacy of the city of New York shall, on the first Monday of April, one thousand eight hundred and eighty-four, and on the same day every third year thereafter, at a special meeting held for that purpose, elect five competent pharmacists, three of whom shall be graduates of some legally-constituted medical college, and the remaining two graduates of some legally-constituted college of pharmacy of the city of New York, and who shall form and be known as the board of pharmacy. The members of this board shall, within thirty days after their election as aforesaid, individually take and subscribe before the clerk of the county of New York, an oath faithfully and impartially to discharge the duties prescribed for them by this title. They shall hold office for

Term of office.

the term of three years and until their successors are duly elected and qualified; and in case of any vacancy, the trustees of the college of pharmacy shall fill the same from two or more nominees elected at a special meeting of the college of pharmacy. The said board shall organize for the transaction of business by the election, by them, from their number, for the whole term, of a president and secretary. The board shall meet at least once every three months, and three members shall constitute a quorum. The duties of the said board shall be to transact all business pertaining to the legal regulation of the practice of pharmacy in the city of New York, and to examine and register pharmacists. Any pharmacist applying for examination shall pay to the secretary a fee of five dollars, and should he pass such examination satisfactorily he shall be furnished with a certificate as to his competency and qualification, signed by the said board of pharmacy.

Duties of, and fees.

§ 2019. It shall be the duty of the secretary to keep a book of registration at some convenient place, of which due notice shall be given through the public press, in which book shall be entered, under the supervision of the said board, the names and places of business of all persons coming under the provisions of this title. It shall be the duty of all such persons to appear before the said board for registration; and the fee for the registration of pharmacists shall not exceed two dollars, and for assistants shall not exceed one dollar. The secretary shall give receipts for all moneys received by him, and pay over the same to the treasurer of the college of pharmacy aforesaid, taking his receipt therefor, which moneys shall be used for the purpose of defraying the expenses of the board of pharmacy, and any surplus shall be for the benefit of the college of pharmacy. The salary of the secretary shall be fixed by the board, and shall be paid out of the registration fees.

1872, ch. 817, §5, Comp. 853.
Secretary to keep book of registration.

Secretary to receipt for and pay over fees to college of pharmacy.

§ 2020. Every registered pharmacist shall be held responsible for the quality of all drugs, chemicals, and medicines he may sell or dispense, with the exception of those sold in the original packages of the manufacturer, and also those known as "patent medicines," and should he knowingly, intentionally, and fraudulently adulterate, or cause to be adulterated, such drugs, chemicals, or medical preparations, he shall be deemed guilty of a misdemeanor, and upon conviction thereof, be liable to a penalty not exceeding one hundred dollars, and in addition thereto, his name shall be stricken from the register.

Id. §6.
Comp. 854.
Registered pharmacists responsible for quality of drugs, etc.
Id. §7.

§ 2021. It shall be unlawful for any person to retail any poisons enumerated in schedules A and B, as follows, to-wit:

Unlawful to retail certain poisons.

SCHEDULE A.

Schedule A. Arsenic and its preparations, corrosive sublimate, white precipitate, red precipitate, biniodide of mercury, cyanide of potassium, hydrocyanic acid, strychnia, and all other poisonous vegetable alkaloids and their salts, essential oil of bitter almonds, opium and its preparations, except paregoric and other preparations of opium containing less than two grains to the ounce.

SCHEDULE B.

Schedule B. Aconite, belladonna, colchicum, conium, nux vomica, henbane, savin, ergot, cottonroot, cantharides, creosote, digitalis, and their pharmaceutical preparations, croton oil, chloroform, chloralhydrate, sulphate of zinc, mineral acids, carbolic acid and oxalic acid, without distinctly labeling the bottle, box, vessel, or paper in which the said poison is contained, and also the outside wrapper or cover with the name of the article, the word "poison," and the name and place of the seller; nor shall it be lawful for any person to sell or deliver any poisons enumerated in schedules A and B, unless upon due inquiry it be found that the purchaser is aware of its poisonous character, and represents that it is to be used for a legitimate purpose. Nor shall it be lawful for any registered pharmacist to sell any poisons included in schedule A, without, before delivering the same to the purchaser, causing an entry to be made in a book kept for that purpose, stating the date of sale, the name and address of the purchaser, the name and quality of the poison sold, the purpose for which it is represented by the purchaser to be required, and the name of the dispenser; such book to be always open for inspection by the proper authorities, and to be preserved for reference for at least five years. The provisions of this section shall not apply to the dispensing of poisons, in not unusual quantities or doses, upon the prescriptions of practitioners of medicine.

Package to be labeled "poison," etc.
Inquiries to be made.

Entry to be made.

Not to apply in certain cases.

1872, ch. 817, §8, Comp. 855.
Not to apply to practitioners of medicines, etc.

Id. §9.
Penalty for attempt to register fraudulently, etc.

§ 2022. Nothing contained in the foregoing sections of this title shall apply to or interfere with the business of any practitioner of medicine who does not keep open shop for the retailing of medicines and poisons; nor with the business of wholesale dealers, but the preceding section, and the penalties for its violation, shall apply to such persons.

§ 2023. Any person who shall attempt to procure registration for himself, or for any other person, under this title, by making or causing to be made any false representation, shall be deemed guilty of a misdemeanor, and shall, upon conviction thereof, be liable to a penalty not exceeding five hundred dollars. Any registered pharmacist who shall permit the compounding and dispensing of prescriptions of medical practitioners in his store

or place of business, by any person or persons not registered, or any person not registered, who shall keep open shop for the retailing or dispensing of medicines and poisons, or who shall fraudulently represent himself to be registered, or any registered pharmacist or dealer in medicines, who shall fail to comply with the regulations and provisions of this title, in relation to the retailing and dispensing of poisons, shall, for every such offense, be deemed guilty of a misdemeanor, and upon conviction thereof, be liable to a penalty of fifty dollars.

§ 2024. Each and every penalty recovered under this title shall be paid to the trustees of the college of pharmacy, and shall form and be known as the library fund of said college of pharmacy, and shall be expended for the purchase of books for the library of said college.

Id. §10.
Penalties re-
covered, to
whom to be
paid.

Title 7.—Birds.

§ 2025. No person shall kill, wound, trap, net, snare, catch with bird lime, or with any similar substance or drug, or in any other manner capture or sell, expose for sale, or transport during the months of April, May, June, July, August, September or October, in any year any bird of song, or any linnet, blue-bird, yellow-hammer, yellow-bird, thrush, woodpecker, cat-bird, peewee, swallow, martin, blue-jay, oriole, kildee, snow-bird, grass-bird, grosbeak, phoebe-bird, humming-bird, blackbird, wren, excepting birds bred in a cage or imported from Europe or the southern United States. No person shall kill or expose for sale or have in his possession after the same has been killed, any robin, meadow-lark or starling, between the first day of January and the fifteenth day of October, save only when such birds are killed on the premises of the persons killing, and while they are destroying fruit. This section shall not apply to any person who shall kill any bird for the purpose of studying its habits or history, or having the same stuffed and set up as a specimen. Any person violating this section shall be deemed guilty of a misdemeanor, punishable by imprisonment in the county jail or penitentiary, of not less than five or more than thirty days, and shall also be liable to a penalty of fifty dollars, to be recovered with costs, by any person suing therefor in his own name. In all actions for the recovery of penalties under this section, one-half of the recovery shall belong to the plaintiff, and the remainder shall be paid to the chamberlain.

1879, ch. 361,
§§1, 2, 3,
Comp. 566.
Song birds and
certain others,
when not to be
killed, etc.

Exceptions.

Penalty.

Penalties, how
distributed.

Title 8.—Commercial Paper during Prevalence of Epidemic.

§ 2026. Whenever the board of health shall, by public notice, designate any portion or district of the said city as being the seat

2 R. S. ch. 4,
title 2, §12,
Comp. 484.

of any infectious or contagious disease, and declare communication with such portion or district dangerous, or shall prohibit such communication, it shall be the duty of the clerk of the said city and county, during the continuance of such disease in such district, to provide and keep in his office a book for the purpose of registering in alphabetical order, the names, firms and places of business of any inhabitant of the city who shall desire such registry to be made.

Registry of inhabitants in case of pestilence

Id. §13.
Their names and places of business, etc.

§ 2027. It shall be the duty of all persons and firms usually resident or doing business within such infected district, to register in the book so provided by the said clerk, their names or firms, with the place or places out of such infected district, but within the county of New York to which they may have removed the transaction of their business, or to which they may desire any notices to be sent or served, or any notes, drafts or bills to be presented for acceptance or for payment. The sum of twenty-five cents may be claimed and received by the said clerk for every such registry; but the book in which the same shall be entered shall be, at all times during office hours, open to public examination, free of all charges.

Fee of clerk.
Register may be examined gratis.

Id. §14.
Drafts, notes, etc., how presented.

§ 2028. During the continuance of any such disease in such infected district, all drafts, notes and bills which by law are required to be presented for acceptance or for payment, may be presented for such purpose at the place so designated in such registry; and all notices of non-acceptance and non-payment, of any note, draft or bill, or of protest, for such non-acceptance or non-payment, may be served by leaving the same at the place so designated.

Id. §15.

§ 2029. In case any person or firm usually resident or doing business within such infected district shall neglect to make and cause to be entered in the book so provided, the registry herein required, all notes, drafts or bills which by law are required to be presented to such person or firm for acceptance or for payment, may be presented to the said clerk of the city and county of New York during the continuance of such disease, at any time during office hours, and demand of acceptance or payment thereof, may be made of the said clerk, to the same purpose and with the same effect as if the same had been presented and acceptance or payment demanded of such person or firm at their usual place of doing business.

Id. §16.
Notices, etc., may be left at post-office.

§ 2030. In case of the omission to make the registry herein required, all notices of the non-acceptance or non-payment of any note, draft or bill, or of protest for such non-acceptance or non-payment, may be served on any person or firm usually resident or doing business within such infected district, by leaving the same at one of the post-offices for the said city, which ser-

vice shall be as valid and effectual as if the notices had been served personally on such person or one of such firm, at his or their usual place of doing business.

§ 2031. Whenever proclamation shall be made by the board of health or other proper authority of the city, that an infectious or contagious disease in any such infected district has subsided, it shall be deemed to have subsided, for all purposes contemplated in this title.

Id. §17.
When pestilence deemed to have subsided.

CHAPTER XXX.

IMMIGRANTS.

§ 2032. The commissioners of emigration shall, from time to time, designate some one place in the city of New York as they shall deem proper for the landing of emigrant passengers, and it shall be lawful for such passengers to be landed at such place so designated by the commissioners of emigration. The commissioners of emigration shall have authority to purchase, lease, construct and occupy such wharves, piers and other accommodations in the city of New York as may be necessary for the accommodation of emigrant passengers for the purposes mentioned in this section.

1855, ch. 474, §46,
7, Comp. 1891.

§ 2033. It shall be the duty of every ship-master, owner or consignee bringing to the port of New York any alien emigrants, steerage or second cabin passengers, in vessels not subject to quarantine, to cause the same to be landed on the emigrant piers aforesaid, either directly from the vessel or by means of some licensed steamboats or lighters; and the landing of them upon any other pier or wharf shall be punished by a fine not less than one hundred dollars, which fine may be recovered of the master, owner or consignee of such ship or vessel. The commissioners of emigration are empowered to make all necessary regulations for the preservation of order, and the admission to or exclusion from said dock of any person or persons excepting such as are duly licensed, and any person violating any of such regulations shall be liable to a penalty of one hundred dollars for each and every offense, to be recovered by the said commissioners of emigration.

1848, ch. 219, §2,
Comp. 1890.
Passengers to be landed on the emigrant piers.

§ 2034. The health officer shall give notice, in writing, to the owner or owners, consignee or consignees, master, commander or person having charge of every vessel, having emigrant passengers on board of such vessel, destined for the city of New

1855, ch. 474, §8,
as amended
1857, ch. 579 §8,
Comp. 1891.

Duty of health
officer.
See §1833.

York, to land such passengers and their personal baggage at such pier or place in the said city of New York as has been or may at any time be designated specially by the commissioners of emigration for the landing of emigrant passengers and their personal baggage.

1853, ch. 218,
§§1, 2, 3,
as amended
1853, ch. 619, §3.
Comp. 1886.
Landing
passengers.

§ 2035. The owner or owners, consignee or consignees, master, commander, or person having charge of any ship or vessel arriving at the port of New York, with passengers emigrating to the United States, shall, subject to the provisions of the preceding sections of this chapter, land all such passengers on some one of the public wharves of the city of New York, excepting, however, such wharves as are owned or rented by, or are under the control of, any steamboat or railroad or forwarding company or line. No owner or owners, consignee or consignees, master, commander, or person having charge of any such ship or vessel, shall order any such passengers to be taken or removed from such ship or vessel, at quarantine or elsewhere, excepting for the purpose of quarantine regulations as to health, or shall give orders, or permit, or allow, any runner or person on behalf of, or connected with, any steamboat, railroad, or forwarding company or line, or emigrant boarding house, to solicit or book any such passengers, or to enter or go on board such ship or vessel, prior to the landing of such passengers, as is provided for in this section. This section shall apply to the owner or owners, consignee or consignees, master, commander, or persons having charge of any steamboat or other vessel employed for the purpose of conveying any passengers from quarantine.

1853, ch. 218, §4.
Comp. 1887.
Penalty for vio-
lating provi-
sions of §1823.

§ 2036. Any consignee or consignees, master, commander, or person having charge of any ship, steamboat or vessel, who shall violate any of the provisions of the preceding section, and the owner or owners of such ship, steamboat or vessel, severally and respectively, shall be subject to a penalty of five hundred dollars for each and every violation of any of such provisions, to be sued for and recovered, with costs of suit by and in the name of the commissioners of emigration, in any court having cognizance thereof; and, when recovered, one half of said recovery shall be paid to the person furnishing information and evidence of such violation, and the remainder of such recovery shall be applied and used by said commissioners of emigration for the purposes for which said commissioners are constituted.

Id. §5.
Penalties to be
liens on ship
or vessel.

§ 2037. Any ship, steamboat or vessel, whose master, commander, owner or owners shall have incurred any penalty or forfeiture, under the provisions of either of the two preceding sections, shall be liable for such penalties or forfeitures which shall

be a lien upon such ship or vessel, and may be enforced or collected by warrant or attachment, in the same manner as is provided in title eight of the third part of the Revised Statutes, all the provisions of which title shall apply to the forfeitures and penalties imposed by such sections; and the said commissioners of emigration, shall for the purpose of such attachment, be deemed creditors of such ship, steamboat, or vessel, and of her master or commander and owner or owners respectively.

§ 2038. Nothing in the three preceding sections contained shall be construed to prevent the landing of such emigrant passengers from steamboats or other vessels, in the manner provided in section two thousand and thirty-five, in any case where the ship or vessel from which such passengers are taken shall be unable to come to any such public wharf, provided such steamboat or other vessel shall be employed at their own expense by the owner, consignee, master, or person having charge of the ship or vessel from which such passengers are taken, for the purpose of landing the same, in consequence of their inability to bring such ship or vessel to said public wharf; and the provisions of such section shall apply to such steamboat or other vessel so employed.

Id. §6.
Landing from
steamboats.

§ 2039. Any runner, or person acting for himself, or for or on behalf of or connected with any steamboat, railroad or forwarding company, or emigrant boarding house, who shall solicit or book any passengers emigrating to the United States, and arriving at the port of New York, before such passenger shall have left the vessel in which he has so arrived, or who shall enter or go on board any ship or vessel, so arriving with emigrant passengers, prior to the landing of such passengers therefrom, and also any person, company, or corporation having employed such person for the purpose of soliciting and booking such passengers prior to their leaving the vessel in which they may arrive, shall be severally subject to a penalty of one hundred dollars for each offense, to be sued for and recovered in the name of the commissioners of emigration, in any court having jurisdiction. Any person violating the provisions of this section may also be indicted for a misdemeanor, which violation shall be held and taken to be a misdemeanor.

1853, ch. 619, §1.
Comp. 1868.
Runners not to
solicit passen-
ger before
leaving vessel.

Misdemeanor.

§ 2040. In any case of violation of the provisions of the preceding section, or of sections two thousand and thirty-five, two thousand and thirty-six and two thousand and thirty-seven, or any of them, whenever it shall be made to appear to any court having jurisdiction thereof, upon satisfactory evidence, that such violation was not intentionally committed, or with a view to the profit of the person committing the same, or for or on behalf of some owner, consignee or other person, nor by any culpable

1881, ch. 676, §625.
1873, ch. 619, §2.
Penalty may be
remitted, when.

negligence, it shall then be lawful for the said court to remit or compound the penalty for such violation, on such terms as may in their judgment be just and equitable to all persons interested in the matter.

Id. §4.
Saving clause.

§ 2041. Nothing in sections two thousand and thirty-five to two thousand and thirty-nine, inclusive, shall be taken or construed to prevent any passenger arriving at the port of New York, and not detained under the authority of the laws for the preservation of public health, from leaving the vessel in which he so arrives, whenever and in any way he shall prefer, upon his personal request or demand so to do, to the commander of such vessel.

1879, ch. 427.
Commissioners
empowered to
to inspect per-
sons and
effects.

§ 2042. The commissioners of emigration are hereby empowered and directed to inspect the persons and effects of all persons arriving by vessel at the port of New York from any foreign country, as far as may be necessary to ascertain who, among them, are habitual criminals or pauper lunatics, idiots, or imbeciles, or deaf, dumb, blind, infirm, or orphan persons, without means or capacity to support themselves, and subject to become a public charge, and whether their persons or effects are affected with any infectious or contagious disease, and whether their effects contain any criminal implements and contrivances. On discovering any such objectionable persons or effects, the said commissioners of emigration and its inspectors are further empowered to take such persons into their care or custody, and to detain or destroy such effects if necessary for the public welfare, and keep such persons under proper treatment, and provide for their transportation and support as long as they may be a necessary public charge. The commissioners of emigration shall, in case of habitual criminals, and may in other cases where necessary to prevent such person or persons from continuing a public charge, re-transport such person or persons to the foreign port from which they came. The commissioners of emigration are further empowered to board any incoming vessel from foreign ports arriving at the port of New York, by its agents and inspectors, who shall have such powers as may be necessary to the effectual execution of this section, and any person who shall resist them in the execution of their lawful function shall be guilty of a misdemeanor and may be arrested by the officer resisted, and, upon conviction, may be sentenced to a term not exceeding six months in the penitentiary, or to pay a fine of one hundred dollars, or both.

To take into
custody luna-
tics, etc.

May board
incoming
vessels, etc.

1881, ch. 432.
Tax on alien
passengers to
be paid by mas-
ters, etc., of
vessels.

§ 2043. There shall be levied and collected a duty of one dollar for each and every alien passenger who shall come by vessel from a foreign port to the port of New York, for whom a tax has not heretofore been paid—the same to be paid to the cham-

berlain of the city of New York, by the master, owner, agent, or consignee of every such vessel within twenty-four hours after the entry thereof into the port of New York. It shall be the duty of the master or acting master of every such vessel within twenty-four hours after its arrival at the port of New York, to report under oath, to the mayor, the names, ages, sex, place of birth, and citizenship of each and every passenger on such vessel, and in default of such report every passenger shall be presumed to be an alien arriving at the port of New York for the first time. And in default of every such payment to the chamberlain, there shall be levied and collected of the master, owner, agent, or consignee of every such vessel, a penalty of twenty-five cents for each and every alien passenger, in addition to the duty heretofore imposed. The commissioners of emigration shall institute suits in the name of the people of the state of New York for the collection of all moneys due or which may grow due under this section, the same to be paid when collected to the chamberlain of the city of New York, to be applied by him pursuant to the terms of the next section.

Master to report under oath to mayor, names, etc., of passengers.

Suits for collection of moneys due.

§ 2044. It shall be the duty of the chamberlain to pay over from time to time to the commissioners of emigration all such sums of money as may be necessary for the execution of the inspection laws of the state of New York, with the execution of which the commissioners of emigration now are or may hereafter be charged by law, and to take the vouchers of the commissioners of emigration for all such payments. And it shall be the duty of the said chamberlain to pay over annually, on the first of January in each year, to the treasury of the United States, the net produce of all the duties collected and received by him under this title after the payments to the commissioners of emigration aforesaid, and take the receipt of the secretary of the treasury therefor.

Payments to be made by chamberlain to commissioners of emigration.

§ 2045. The commissioners of emigration are authorized and required to grant and issue licenses, and from time to time, in their discretion, to suspend, revoke, or annul the same, to the owner or captain of any steamboat, steam-tug, propeller, or barge, used or engaged, or to be used or engaged, for the purpose, in whole or in part, of the removing, taking off, or conveying, or transporting to any dock or pier in the city of New York, emigrant passengers, or their baggage, arriving at and being in any part of the port of New York, within this State, from the ship or vessel in which such emigrant passengers or their luggage shall have arrived at such part of said port, provided always that such licenses shall not be suspended, revoked, or annulled, except for cause, after opportunity for the party complained of to be heard.

1857, ch. 579, § 1
Comp. 1692.
Licenses.
28 N. Y. 134.

1837, ch. 579, §2.
Comp. 1892.
Removing of
passengers, etc.

§ 2046. It shall not be lawful for any steamboat, steam-tug, propeller, barge, or other boat or vessel, or the owner or captain, or person having charge of the same, to go or to be taken alongside of any ship or vessel having such passengers on board, being within this State, with the intent or for the purpose of removing, taking off, conveying, or transporting, or to remove, take off, convey, or transport any of such passengers, or the baggage of any such passengers, from such ship or vessel, being in this State, to any dock in the city of New York or Brooklyn, unless the license mentioned in the preceding section shall have been granted and issued to the then owner or then captain of such steamboat, steam-tug, propeller, barge, or other boat, or vessel, and be then existing and not suspended, revoked, or annulled.

1837, ch. 579, §8
Comp. 1892.
Penalties.

§ 2047. The owner and owners jointly and severally, and the captain or person having charge of any steamboat, steam-tug, propeller, barge, or other boat or vessel, violating the provisions of the preceding section or any of them, shall be liable to a penalty of five hundred dollars, for each and every violation thereof; and in case any of such passengers, or the baggage of any of them, shall be taken off or removed from such ship or vessel, so being within this State, in or by any steamboat, steam-tug, propeller, barge, boat, or other vessel, without the license aforesaid, with the intent or for the purpose mentioned in said section, or in violation of any of its provisions, except in case of shipwreck or imminent danger thereof, the owner or owners, jointly and severally, and the captain or person having charge thereof, shall, in addition to the above penalty, be also liable to a further penalty of fifty dollars for each and every passenger, and for the baggage of each and every passenger so taken off, or conveyed from such ship or vessel; which penalties shall be deemed and be forthwith a lien on such steamboat, steam-tug, propeller, barge, boat, or other vessel, and may be, immediately upon such violation, sued for, enforced and recovered by and in the name of the commissioners of emigration, either by an action in any court having jurisdiction thereof, or by an attachment under and pursuant to the provisions of the laws enacted for the collection of demands against ships and vessels, and said commissioners shall forthwith be deemed to be, and be creditors of such steamboat, steam-tug, propeller, barge, boat, or vessel, and have a direct lien thereon.

Id. §5.
Personal
baggage.

§ 2048. All personal baggage of emigrant passengers arriving at the port of and destined for the city of New York shall be landed at the place or pier designated as the landing place in said city for emigrant passengers; and the captain, owner and consignees of every ship or vessel arriving at said port with emigrant passengers destined for said city shall be jointly and

severally subject and liable to a penalty of fifty dollars for each and every emigrant passenger, or his personal baggage, landed at any place or pier other than the place or pier aforesaid; which penalty shall be a lien upon such ship or vessel, and may be enforced and recovered by and in the name of the commissioners of emigration, either by an action or by warrant of attachment, under and pursuant to the provisions of the laws enacted for the collection of demands against ships and vessels.

§ 2049. All persons keeping houses in said city for the purpose of boarding emigrant passengers shall be required to have a license for said purpose from the mayor, and such person so licensed shall pay to the city the sum of ten dollars per annum, and shall give bonds satisfactory to said mayor, with one or more sureties, in the penal sum of five hundred dollars, for good behavior, and the proper conduct of all agents and runners in their employ, and the said mayor is hereby authorized to revoke any license for cause. Every keeper of such boarding-house shall, under a penalty of fifty dollars, cause to be kept conspicuously posted in the public rooms of such house, in the English, German, Dutch, French and Welsh languages, and printed upon business cards, to be kept for distribution as hereinafter provided, a list of the rates of prices which will be charged emigrants per day and week for board and lodging, and also the rates for separate meals, which card shall contain the name of the keeper of such house, together with its number and the name of the street in which such house is situated. The keeper of such house shall also file a copy of said list in the office of the commissioners of emigration, and the keeper of any emigrant boarding-house who shall neglect or refuse to post a list of rates, or to keep business cards so as above provided, or who shall charge or receive, or permit or suffer to be charged or received for the use of such keeper or for any other person, any greater sum than according to the rates of prices so posted and printed on business cards, and if any runner employed by any emigrant boarding-house keeper, or any emigrant boarding-house keeper himself, shall engage any emigrants as guests for such boarding-house, without delivering to every such emigrant a printed business card as above provided, he shall, upon conviction thereof, be deprived of his or her license, and be punished by a fine not less than fifty, nor more than one hundred dollars, to be recovered by the commissioners of emigration, and any person who shall keep a boarding or lodging house for emigrants who shall refuse or neglect to obtain a license in pursuance of the provisions of this section, shall upon the first conviction forfeit the penalty of one hundred dollars, and upon a subsequent conviction shall forfeit

1848, ch. 219, §3,
as amended
1849, ch. 432, §1,
Comp. 1681.
License
required.

Notice in various
languages
to be put up in
each house.

Copy thereof to
be filed with
commissioner
of emigration.

the penalty of two hundred dollars, to be recovered by the persons and in the manner above set forth.

1848, ch. 219, §4
as amended
1849, ch. 432, §1,
Comp. 1681.
Restriction as
to lien on ef-
fects of emi-
grant boarders.

§ 2050. No keeper of any emigrant boarding-house shall have any lien upon the baggage or effects, of any emigrant for boarding, lodging, storage, or any other account whatever, for any greater sum than shall be due from such emigrant for boarding and lodging according to the rates or prices so posted, as above provided; and upon complaint being made upon oath before the mayor or any police magistrate, that the luggage or effects of any emigrant are detained by the keeper of any emigrant boarding-house, under pretense of any lien upon such luggage or effects, or on any claim or demand against the owner or owners thereof, for any other or greater sum than in accordance with such rates, it shall be the duty of the officer before whom such complaint is made immediately to issue his warrant, directed to any constable or policeman of said city, commanding him or them to bring before him the party against whom such complaint has been made, and upon conviction thereof the officer before whom such conviction shall be had shall cause the said goods to be forthwith restored to the owner thereof, and the party so convicted shall be punished by a fine not less than fifty dollars, and not exceeding one hundred dollars, and shall be committed to the city prison until the said fine shall be paid, and until such luggage or effects shall be delivered to such emigrant. Any person so convicted shall have the right of appealing from the decision of such mayor or magistrate to the same tribunals and in the same manner as if provided by law for appeals from the decisions of justices in civil cases, and all the provisions of law relating to appeals from justices shall apply so far as applicable to appeals from such mayor or other magistrate. But such appeal shall not authorize the detention of such luggage or effects after the payment of the sum which such mayor or magistrate shall adjudge to be justly due from such emigrant.

Right of
appeal.

1848, ch. 219, §5,
as amended
1857, ch. 579, §4,
Comp. 1682.
Emigrant
runners.

§ 2051. No person shall, in said city, solicit emigrant passengers or their luggage for emigrant boarding-houses, passenger offices, forwarding transportation lines, or for steamers, ships, or vessels bound or about to proceed to any port not within this State; or for any person or for any company selling or offering for sale passage tickets, or contracting or offering to contract for passage in any such steamer, ship or vessel without a license for that purpose, which shall expire at the end of one year from its date. Such license may be issued and revoked in the discretion of the commissioners of emigration for cause, as hereinbefore provided. Such person receiving such license, shall pay the sum of twenty dollars, and give a bond, with two sufficient sureties, in

the penalty of five hundred dollars, conditioned for the good behavior and the observance by him of the provisions of this section to the commissioners of emigration. The money thus received or collected on said bonds shall be for the benefit of the emigrant fund. Every person so licensed shall wear, in a conspicuous place about his person, a badge or plate, of such character and in such time and manner as such commissioners shall prescribe, with the words "licensed emigrant runner" inscribed thereon, with his name and the number of his license. No person who is not of approved good moral character shall be licensed as such runner. Every person who shall, without such license, solicit alien emigrant passengers or others, for the benefit of boarding-houses, passenger offices, or forwarding or transportation lines, or for any steamer, ship, or vessel bound or about to proceed to any port not within the State of New York, or for any person or company selling or offering for sale passage tickets, or contracting or offering to contract for passage in any such steamship or vessel upon any street, lane, alley, or upon any dock, pier, or public highway, or in any other place within the corporate bounds of the city, or upon any waters adjacent thereto, over which said city has jurisdiction, shall be deemed guilty of a misdemeanor, and shall be punished by imprisonment in the county prison or jail not less than three months, nor exceeding one year. The bonds mentioned in this section may be sued by and in the name of the commissioners of emigration in any court having cognizance thereof; and in case of a breach, the said commissioners shall recover the full penalty of said bond.

Bonds.

§ 2052. No person or persons shall exercise the vocation of booking emigrant passengers, or taking money for their inland fare, or for the transportation of the luggage of such passengers, without keeping a public office for the transaction of such business, nor without the license of the mayor, for which shall be paid the sum of twenty-five dollars per annum. Every such office and place for weighing luggage shall be at all times when business is being transacted therein open to the commissioners of emigration or their agent, duly appointed, and no scales or weights shall be used for such purpose but such as have been inspected and sealed by the city inspector of weights; and every such establishment shall have posted in a conspicuous place and manner at its place of business in the English, German, Dutch, French, and Welsh languages, a list of prices or rates of fare for the passage of emigrant passengers, and the price per hundred pounds for transportation of their luggage to the principal places to which the proprietors thereof undertake to convey such passengers; and shall also deliver a copy of such list to the commis-

1848, ch. 219, §7,
as amended
1849, ch. 432, §1,
Comp. 1083.

Agents or persons booking emigrant passengers to keep an office and have license.

Establishments to have notices posted, etc.

Tickets to be
issued.

sioners of emigration; and any person or company who shall charge or receive, or allow to be charged or received, by any person in his or their employment, a greater amount than is specified in said list of prices, or who shall defraud any emigrant in the weight of his or her luggage, or who shall receive money from an emigrant or emigrants for their passage or for the transportation of their luggage, and shall refuse or neglect to issue to the person or persons so paying their fare, or for the transportation of their luggage, a ticket which shall state the time and place of such issue, the number of persons so paying, the distance in miles to the place to which fare is received, the amount so received, the number of pounds of baggage, and the price per hundred pounds for its transportation; which said ticket shall be signed by the person or persons in whose names the establishment is conducted, and if more than one person is interested in the concern as a partner then the full name of all the persons so interested in said concern shall be printed or written on the ticket, or who shall issue any ticket directed to an agent without first having made arrangements with some responsible person or persons to act as his, her or their agent, or who shall issue a ticket so as aforesaid for the passage of any emigrant, or his or her luggage, which shall not be promptly redeemed by the agent or consignee, according to the terms of the agreement, as set forth in the ticket, or who shall in any way fail or neglect to fulfill any contract for the passage of any emigrant, or for the transportation of any luggage, made with an emigrant, or who shall issue to any person blank receipts signed by him or them, or who shall permit his, her or their name or names to be used by any other person or persons in said business of booking emigrant passengers and their luggage, or taking money for their fare or transportation of their luggage, shall, together with all other persons concerned in the violation of these provisions, be deemed guilty of a misdemeanor, and shall, upon conviction, be punished by confinement in the city prison not less than six nor more than twelve months; and any person or company receiving money as aforesaid for the passage of emigrants, or for the transportation of their luggage, without such office and license, or who shall refuse admission as aforesaid to such office or place of weighing luggage during the time of transacting business therein, or who shall neglect to post the said list of rates as aforesaid, or who shall neglect or refuse to furnish a copy thereof as aforesaid, or who shall make any arrangement or engagement with any emigrant for his passage or transportation, or any runner or agent connected with or employed by such forwarding establishment who shall make such engagement or arrange-

Punishment for
violations.

ment without delivering to every such emigrant a printed card (in the language of the country to which said emigrant may belong), of prices or rates of fare, which will be charged every emigrant for his passage or for transportation of his baggage or effects to the principal places on the route which he, the said emigrant, is about to travel, or every such keeper or owner or owners, or runner or runners connected therewith, or any licensed emigrant runner or runners shall be deemed guilty of a misdemeanor, and shall upon conviction be punished by imprisonment in the county prison for a period not less than three nor more than six months. Licenses under this section may be revoked for cause; and no person shall be licensed under this section who is not of good moral character and a citizen of the United States.

§ 2053. Any person who shall sell, or cause to be sold, a passage ticket, or order for such ticket, to any emigrant passenger, at a higher rate than one and a quarter cent per mile, or shall take pay for any ticket, or order for a ticket, under any false representation as to the class of said ticket, whether emigrant or first class, shall, upon conviction, be deemed guilty of a misdemeanor, and be punished by a fine of two hundred and fifty dollars, and imprisonment in the county jail for not less than sixty days.

1853, ch. 218, §7.
Comp. 1887.
Selling tickets.

§ 2054. Any person who shall, directly or indirectly, by means of false representations, purchase or receive from any emigrant passenger any passage ticket, or who shall procure or solicit any such passenger, having a passage ticket, to exchange the same for any other passage ticket, or to sell the same and purchase some other passenger ticket, shall be deemed guilty of a misdemeanor, and, upon conviction, shall be punished by fine and imprisonment.

Id. §8.
Fraudulently
obtaining pas-
sage tickets
from passen-
gers.

§ 2055. Any person who shall sell or dispose of any ticket, or order for ticket or tickets, at a price or for a consideration beyond the highest price advertised for tickets by the company advertising at the highest price, published according to the provisions of law, shall be, upon conviction thereof in any of the courts of this State, deemed guilty of a misdemeanor, and imprisoned therefor in one of the prisons of this State for a term not exceeding two years.

Id. §9.
Penalty for
selling tickets
over regular
prices adver-
tised by
company.

§ 2056. It shall not be lawful for any railroad company, or for any agent, employé, or other officer of any railroad company, or for any other person, to sell, offer for sale, or otherwise dispose of any ticket or tickets, or written or printed instruments, or instruments partly written and partly printed, for the transportation or conveyance on or by any railroad or steamboat of any immigrant or deck or steerage or second-class passenger, arriving

1868, ch. 733, §1.
Comp. 1894.
Places for sale
of tickets to
immigrants.

Railroad companies may sell tickets to immigrants.

Railroad agent to sell tickets to immigrants.

Agents guilty of fraud, etc.

1868, ch. 798, §2, Comp. 1697.
Proceedings in cases of arrests under this title.

Depositions to be taken.

May be read on trial of accused parties.

at the port of New York from a foreign country, at any place or places in the city of New York, except such as may be designated by the commissioners of emigration; which place or places may, from time to time, as they may deem best, be changed by the said commissioners; provided, however, that nothing herein contained shall prevent any railroad company from selling tickets to any persons at the rates of fare charged for first-class passengers, nor from selling tickets at the principal ticket offices of such company to immigrants and other second-class passengers, provided that such company has at the same time an agent who shall sell tickets at the place designated by the said commissioners for selling tickets to immigrants. The commissioners of emigration shall furnish every railroad company of this State desiring it the privilege to have an agent at each and every place so designated by them to sell tickets to immigrants and other second-class passengers; but if any such agent shall be found by said commissioners to have been guilty at any time, while acting as an agent, of defrauding emigrants, or of any other wrongful or disgraceful conduct, they shall exclude such agent, and it shall be the duty of the railroad company to appoint another agent in his place.

§ 2057. Whenever any person or persons may be complained of and arrested for violating any of the provisions of this title, it shall be the duty of the magistrate before whom such complaint is made to take and reduce to writing, in the presence of the person or persons complained of, the evidence of any witness which may be offered, either on behalf of the prosecution or of the person complained of, allowing the opposing party an opportunity to cross-examine the witness, and the depositions so taken shall be subscribed respectively by the witnesses making the same, and certified by the magistrate; and when so taken and certified, the said depositions shall be filed in the office of the clerk of the court of oyer and terminer, in and for the city and county of New York; and upon the trial of any party accused, in whose presence any such deposition shall have been taken upon any complaint or charge made against him, relative to the same transaction, such deposition may be read by either party with the same effect as if the same witness were sworn and his testimony taken in open court upon such trial; provided it shall appear thereby that the witness, at the time the deposition was taken, was a resident of this State, on his way to some other State, territory, province, or country, or a resident of another State, territory, or province, or an immigrant from a foreign country; and provided further, that it shall not be shown to the court that the witness, at the time of the trial, is within its jurisdiction.

§ 2058. Any person violating any provision of the two preceding sections shall be deemed guilty of a misdemeanor, and shall, upon conviction, be punished by a fine of not less than three hundred and not more than one thousand dollars, or by imprisonment of not less than three months, or by both said fine and imprisonment.

Id. §8.
Violations of
act to be
deemed a mis-
demeanor.

§ 2059. It shall be the duty of all companies, associations, and persons, undertaking to transport or convey, or engaged in transporting or conveying, by railroad, steamboat, canal boat, or propeller, any immigrant, second-class, steerage or deck passenger from the city, bay or harbor of New York to any point or place distant more than ten miles therefrom, to deliver to the mayor of the city of New York, and to the commissioners of emigration, on or before the first day of April in each and every year, a written or printed statement of the price or rates of fare to be charged by such company, association, or person, for the conveyance of such immigrant, second-class, steerage, and deck passengers respectively, and the price per hundred pounds for the carriage of the luggage, and the weight of luggage to be carried free of such passengers from and to each and every place, from and to which any such company, association, or person shall undertake to transport and convey such passengers; and such prices or rates shall not exceed the prices and rates charged by the company, association, or person, after the time of delivering such statement to the said mayor; and such statement shall also contain a particular description of the mode and route by which such passengers are to be transported and conveyed, specifying whether it is to be by railroad, steamboat, canal boat, or propeller, and what part of the route is by each, and also the class of passage, whether by immigrant trains, second-class, steerage or deck passage. In case such companies, association, or person, shall desire thereafter to make any change or alteration in the rates or prices of such transportation and conveyance, they shall deliver to the said mayor a similar statement of the prices and rates as altered and changed by them; but the rates and prices so changed and altered shall not be charged or received until five days after the delivery of the statement thereof to the said mayor.

1855, ch. 474, §1,
Comp. 1689.
Rates of fare to
be charged
immigrants.
See 1857, ch. 579.

§ 2060. Every ticket, receipt, or certificate which shall be made or issued by any company, association, or person, for the conveyance of any immigrant, second class, steerage, or deck passengers, or as evidence of their having paid for a passage, or being entitled to be conveyed from said city, bay or harbor to any other place or places, shall contain, or have indorsed thereon, a printed statement of the names of the particular railroad, or railroads, and of the line or lines of steamboats, canal

1855, ch. 474, §2,
Comp. 1690.

boats, and propellers, or of the particular boats or propellers, as the case may be, which are to be used in the transportation and conveyance of such passengers, and also the price or rate of fare charged or received for the transportation and conveyance of any such passenger or passengers with his or their luggage.

Id. §3.

§ 2061. It shall not be lawful for any person or persons to demand or receive or bargain for the receipt of any greater or higher price or rate of fare for the transportation and conveyance of any such immigrant, second class, steerage or deck passengers with their luggage, or either, from said city, bay or harbor to any other point or place, than the prices or rates contained in the statements which shall be delivered to the mayor, and said commissioners, as in section two thousand and fifty-nine provided for, or the price or rates which shall be established and fixed for the transportation and conveyance of such passengers and their luggage, or either, by the proprietors or agents of the line or lines, or means of conveyance, by which such passenger or passengers and their luggage are to be transported or conveyed. In all cases each immigrant over four years of age conveyed by railroad shall be furnished with a seat with permanent back to the same, and when conveyed by steamboat, propeller, or canal boat, shall be allowed at least two and one-half feet square in the clear on deck. Such deck shall be covered and made watertight over head, and shall be properly protected at the outsides, either by curtains or partitions, and shall be properly ventilated.

Id. §4.

§ 2062. Any company, association, person or persons violating or neglecting to comply with any of the provisions of sections two thousand and fifty nine or two thousand and sixty shall be liable to a penalty of two hundred and fifty dollars for each and every offense, to be sued for and recovered in the name of the people of this State; and every person violating any of the provisions of section two thousand and sixty-one shall be deemed guilty of misdemeanor, and on conviction thereof the person offending may be punished by a fine of two hundred and fifty dollars, or by imprisonment not exceeding one year, or by both fine and imprisonment, in the discretion of the court; one-half of which fines, when recovered, shall be paid to the informer, and the other half into the county treasury where the action shall be tried or the conviction had.

1855, ch. 474, §5,
Comp. 1891.

§ 2063. It shall be the duty of every magistrate who shall issue a warrant for the apprehension of any person or persons for violating the provisions of section two thousand and sixty-one, within twenty-four hours after such person or persons shall have been taken and brought before him, to take the testimony of any witness who may be offered to prove the offense charged,

in the presence of the accused, who may, in person, or by counsel, cross-examine such witness. The testimony so taken shall be signed by the witness, and be certified by the magistrate, and in case such magistrate shall commit the accused to answer the charge he shall immediately thereafter file the testimony so taken with the district attorney of the county in which the offense was committed, to be used on the trial of or on any further proceedings against the accused; and the testimony so taken shall be deemed valid and competent for that purpose, and be read and used with the like effect as if such witness were orally examined on such trial or proceedings. After the testimony of any witness shall be so taken he shall not be detained, nor be imprisoned, or compelled to give any recognizance for his future appearance as a witness on any trial or proceeding thereafter to be had in the premises.

§ 2064. It shall be the duty of all captains, owners, agents and consignees of all ships or vessels arriving at the port of New York, having as a passenger any lunatic, idiot, deaf, dumb, blind, maimed, infirm, or sick indigent person, or persons above the age of sixty years, to keep, provide and care for such person in a proper manner on board of such ship or vessel, at the expense of such captain, owner, agent or consignee, until such person shall have been delivered over to and placed under the care of the commissioners of emigration. Any person violating this section shall be liable to a penalty of five hundred dollars for each and every such violation, to be sued for by the commissioners of emigration.

§ 2065. Each commissioner of emigration shall have power to administer an oath to and examine under oath any witness respecting any complaint made by any person relative to the ship in which any passenger was brought to the United States, or the treatment of any passenger during the voyage, or the food or drink furnished to any passenger on the voyage, or the death on the voyage of any passenger, but to entitle the same to be read upon the trial of any person accused of any crime or offense, such examination shall be made in the presence of the person complained of, who shall have a right to cross-examine every such witness. Such commissioner shall cause such testimony to be reduced to writing before him, and shall sign and certify the same, and shall deliver such depositions, so signed and certified, to the clerk of the county of New York, who shall file the same of record in his office, and shall enter a docket or minute of such filing, on payment of a fee of one dollar. The said clerk shall deliver a certified copy of such deposition to any person applying for the same, upon payment of a fee of twenty-five cents

1866, ch. 737, §1.
Comp. 1673.

Persons to be
cared for by
captains, etc.,
of vessels.

Id. §2.
1868, ch. 857,
§§1, 2, 3,
Comp. 1695.
Examination
of witnesses,
relative to
treatment, etc.,
of emigrants.

Depositions to
be reduced to
writing.

Fee.

for such certificate, and of five cents for every folio of one hundred words therein contained.

1868, ch. 837, §5,
Comp. 1696.
Notice to
owners of ves-
sels, before
taking testi-
mony.

§ 2066. Before taking such testimony, such commissioners shall cause at least six hours' written notice thereof to the said vessel, her owners, master or charterers, to be served on the owners personally, or on the master personally, or by handing a true copy thereof to the person found in charge of such vessel. The said notice, with an affidavit of service, which may be made before such commissioner, shall be attached to the deposition; but such notice need not name the owner, master or charterer, and such owner, master or charterer, or their agent, may cross-examine said witness; but no examination shall be adjourned for more than twenty-four hours, unless by reason of sickness of such witness.

1868, ch. 867, §4,
Comp. 1696.
Depositions, or
certified copies
thereof, to be
evidence in
certain actions.

§ 2067. Such deposition and certified copies thereof shall be evidence in any action then or thereafter pending between any of the passengers on such voyages and the said ship, or her owners, master or charterers, victualing, manning and navigating her for such voyage, upon any claim involving the facts therein testified to.

1861, ch. 387, §1,
Comp. 1676.
Sale of un-
claimed bag-
gage.

§ 2068. The commissioners of emigration are authorized and required to sell at public auction, to the highest bidder, all unclaimed baggage, goods, or other personal property of emigrant passengers arriving in vessels at the port of New York, one year after the same shall have come into their possession, provided the sale shall be advertised with a full description of said baggage, goods, or other personal property, together with the time and place of said sale, for the period of four weeks, in at least two daily papers, published in the city of New York; and the cost of such advertising and sale, and the necessary expenses incident thereto, shall be a lien on said baggage, goods or other personal property. The proceeds of such sales, after deducting the costs and expenses as aforesaid, shall be deposited in the New York Life and Trust Company, subject to the claim of the rightful owner, for the term of two years; and after then shall be applied to the legitimate uses of the commissioners of emigration, less the costs and expenses.

Advertisement.

Deposit of
funds.

CHAPTER XXVI.

PROTECTION OF SAILORS.

§ 2069. It shall not be lawful for any person, except a pilot or public officer, to board, or attempt to board, a vessel arriving in the port or harbor of New York before such vessel shall have been made fast to the wharf without first obtaining leave from the master or person having charge of such vessel, or leave in writing from her owners or agents.

1866, ch. 184, §1.
Comp. 1699.
In what case
consent of mas-
ter necessary
to boarding
vessel.

§ 2070. It shall not be lawful for any owner, agent, master or other person having charge of any vessel arriving or being in the port of New York to permit or authorize any sailors' hotel or boarding-house keeper not licensed as hereinafter provided, or any agent, runner or employee of any sailors' hotel or boarding-house keeper to board or attempt to board any vessel arriving in or lying or being in the harbor or port of New York, before such vessel shall have been made fast to the wharf or anchored, with intent to invite, ask or solicit the boarding of any of the crew employed on such vessel.

Id. §2.
In what cases
master, owner,
etc., not to give
consent.

§ 2071. It shall not be lawful for any sailors' hotel or sailors boarding-house keeper, or the employees of any sailors' hotel or boarding-house keeper, to engage in the business of shipping seamen for any vessel, nor for any such person having boarded any vessel made fast to any wharf in the port of New York to neglect or refuse to leave said vessel after having been ordered so to do by the master or person having charge of such vessel.

Id. §3,
as amended
1877, ch. 434, §1.
Keepers of
saloons, hotels,
etc., not to
ship seamen,
etc.

§ 2072. It shall not be lawful for any person to keep, conduct or carry on, either as owner, proprietor, agent or otherwise, any sailors' boarding-house or sailors' hotel in the city of New York, without having the license in this chapter provided.

Id. §4.
License for
sailors' board-
ing houses,
etc.

§ 2073. It shall not be lawful for any person not having the license in this chapter provided, or not being the regular agent, runner or employee of a person having such a license, to invite, ask or solicit, in the city or harbor of New York, the boarding or lodging of any of the crew employed on any vessel.

Id. §5.
Persons not
licensed for-
bidden to so-
licit boarding
of sailors.

§ 2074. There is created a board denominated a board of commissioners for licensing sailors' hotels or boarding-houses in the city of New York, consisting of one person selected by each of the following corporate bodies or associations, respectively, to wit: The Chamber of Commerce of the State of New York; the American Seamen's Friend Society, in New York; the New

Id. §6,
as amended
1877, ch. 434, §2.
Comp. 1700.
Sailors' hotels,
etc., licensing
of.

York Board of Underwriters ; the Marine Society of New York ; the Society for Promoting the Gospel among Seamen in the Port of New York ; and the Shipowners' Association of the State of New York.

Id. §7.
Their duties.

§ 2075. Such board shall take the application of any person applying for a license to keep a sailors' boarding-house, or sailors' hotel, in the city of New York, and upon satisfactory evidence to them of the respectability and competency of such applicant, and of the suitableness of his accommodations, shall issue to him a license, which shall be good for one year, unless sooner revoked by said board, to keep a sailors' boarding-house in the city, and to invite and solicit boarders for the same.

1966, ch. 184, §8,
Comp. 1700.
Revocation of
license.

§ 2076. Such board may, upon satisfactory evidence of the disorderly character of any sailors' hotel or boarding-house, licensed as hereinbefore provided, or of the keeper or proprietor of any such house, or of any force, fraud, deceit or misrepresentation in inviting or soliciting boarders or lodgers for such house, on the part of such keeper or proprietor, or of any of his agents, runners or employees, or of any attempt to persuade or entice any of the crew to desert from any vessel in the harbor of New York, by such keeper or proprietor, or any of his agents, runners or employees, revoke the license for keeping such house.

Id. §9.
License fees,
how to be
applied.

§ 2077. Every person receiving the license hereinbefore provided for, shall pay to the board of commissioners aforesaid the sum of twenty dollars, which, after deducting the actual expenses of said board incurred in the transaction of the business, which expenses shall not exceed the sum of fifteen hundred dollars, shall be by them applied for the relief of shipwrecked and destitute seamen. Said board shall file on the second Monday of January of each year, in the office of the clerk of the city and county of New York, a statement showing the number of licenses issued, the names of persons to whom issued, with name and number of the street or house licensed during the year preceding, the amount of money received therefor, the amount and items of their disbursements, and the amount distributed by them as hereinbefore directed.

Statement of
licenses

Id. §10.
President of
board, etc.
By-laws.

§ 2078. The said board shall appoint a president and secretary, and shall keep an office in the city of New York, and make such by-laws and regulations as may be needful for the orderly conduct of its business, not inconsistent with the Constitution and laws of this State.

Id. §11.
Comp. 1701.
Badges to be
furnished by
board.

§ 2079. The said board shall furnish to each sailors' hotel or boarding-house keeper, licensed by them as aforesaid, one or more badges or shields, on which shall be printed or engraved the name of such hotel or boarding-house keeper, and the number and street of his hotel or boarding-house ; and which said

badges or shields shall be surrendered to said board upon the revocation by them or expiration of any license granted by them as herein provided.

§ 2080. Every sailors' hotel or boarding-house keeper, and every agent, runner, or employee of such hotel or boarding-house keepers, when boarding any vessel in the harbor of New York, or when inviting or soliciting the boarding or lodging of any seaman, sailor, or person employed on any vessel, shall wear conspicuously displayed the shield or badge referred to in the foregoing section.

Id. §12.
To be worn conspicuously.

§ 2081. It shall not be lawful for any person, except those named in the preceding section, to have, wear, exhibit or display any such shield or badge to any of the crew employed on any vessel with the intent to invite, ask or solicit the boarding or lodging of any of the crew employed on any vessel being in the harbor of New York.

Id. §13.

§ 2082. Whoever shall offend against any or either of the provisions contained in sections two thousand and sixty-nine to two thousand and seventy-three, inclusive, or two thousand and eighty or two thousand and eighty-one, of this act, and any commissioner appointed under this chapter, who shall directly or indirectly receive any gratuity or reward, other than as herein provided for, or on account of any license under this chapter, shall be deemed guilty of a misdemeanor, and shall, upon conviction thereof, be punished by imprisonment in a county jail for a term not exceeding one year, and not less than thirty days, or by a fine not exceeding two hundred and fifty dollars, and not less than one hundred dollars, or by both such fine and imprisonment.

Id. §14.
Penalties for violation of provisions of this title.

§ 2083. The word "vessel," as used in this chapter, shall include vessels propelled by steam.

1866, ch. 184,
§15, Comp. 1701.
What "vessel" includes.
1866, ch. 362, §1
Comp. 1706.

§ 2084. The president of the trustees of the Seamen's Fund and Retreat in the city of New York shall demand and be entitled to receive, and in case of neglect or refusal to pay, shall, in the name of the people of the State of New York, sue for and recover the following sums from either the owner or owners, or from the master, or from both the owner or owners and master, of every vessel from a foreign port; for the master one dollar and fifty cents; for each mate, sailor, or mariner, one dollar. Second, from the master of each coasting vessel, from each person on board composing the crew of such vessel, twenty-five cents; but no coasting vessel from the State of New Jersey, Connecticut or Rhode Island shall pay for more than one voyage in each month, computing from the first voyage in each year. And the said president may sue for the penalties imposed by law on masters of coasting vessels for non-payment of hospital money.

CHAPTER XXVII.

THE PORT-WARDENS.

1858, ch. 405, §1.
Comp. 1709.
Board of
wardens.
17 N. Y. 141.

§ 2085. There is established a board of wardens for the port of New York, which shall be called and known by the name and title of "the Port Wardens of the Port of New York," and shall be composed of nine members, one of whom shall be a resident of the city of Brooklyn, three of whom shall be nautical men, who shall be nominated, and, by and with the advice and consent of the senate, appointed by the governor; and they shall annually elect one of their number president, and another vice-president. All appointments of port-wardens shall be for the term of three years, except that any vacancy shall be filled for the residue of the unexpired term; said wardens shall hold their offices until their successors shall be appointed and duly qualified. Any warden may be removed for misconduct or neglect of duty, at the discretion of the governor, and any warden neglecting or refusing to perform the duties of his office, or violating the regulations of the board, after due notice from the board, shall be liable to suspension by the vote of a majority of the whole board, and during such suspension said warden shall not be entitled to participate in the pay and emoluments of said office unless reinstated by the governor, by and before whom an appeal shall be heard and decided.

Removal.

Id. §4.
Secretary.
17 N. Y. 141.

§ 2086. The said board shall have power to appoint a secretary and fix his compensation, who shall hold his office during the pleasure of the board, said compensation to be paid out of the receipts of the office. It shall be the duty of the secretary to keep, in such books as shall be provided for the purpose, a full, true and complete record of all their acts, proceedings, surveys and reports, and such books shall be open to the public inspection of any person interested therein; and the said board of wardens shall have and use a common seal, and each warden shall have full power and authority to administer oaths, examine witnesses and take affidavits concerning the business of said office; and all willful false swearing under such oaths shall be deemed perjury and punished accordingly; and the said board shall also have full power to make such rules and regulations for their own government and the discharge of their duties under this chapter as they may deem necessary and proper. They shall keep an office in the city of New York, at which office a major-

ity of them and their secretary shall give attendance daily (Sundays and public holidays excepted), and shall have the exclusive right to perform all the duties of port-wardens of the port of New York specified in this chapter.

§ 2087. It shall be the duty of said board or some one of them, on being notified and requested by any of the parties interested, to proceed in person on board of any vessel for the purpose of examining the condition and stowage of cargo, and if there be any goods damaged on board said vessel, they shall inquire, examine, and ascertain the cause or causes of such damage, and make a memorandum thereof, and enter the same in full upon the books of the office, and if after the arrival in port of any vessel the hatches shall be first opened by any person not a port-warden, and the cargo or any part thereof shall come from on ship-board in a damaged condition, these facts shall be presumptive evidence that such damage occurred in consequence of improper stowage or negligence on the part of the persons in charge of the vessel, and such default shall be chargeable to the owner, consignee, master or other person in interest (as part owner or master) of said vessel, each and all of whom shall be primarily liable for such damage. And the said board shall be exclusive surveyors of any vessel which may have suffered wreck or damage, or which shall be deemed unfit to proceed to sea, and shall examine the condition of the hull, spars, sails, rigging, and all appurtenances thereof, and they shall call to their assistance one or more carpenters, sail-makers, riggers, ship-wrights, or other person skilled in his profession, to aid them in their examination and survey, provided such person shall not be interested therein; and all parties so called shall be sworn, and shall each be allowed a fee of two dollars, to be paid by the persons requiring said examination. The said wardens shall specify what damage has occurred and record in the books of said office a full and particular account of all surveys held on said vessel; they shall also be the judges of the repairs necessary to render said vessel again seaworthy, or for the safety of said vessel and cargo on the intended voyage. They shall also have exclusive cognizance of all matters relating to the surveys of vessels and their cargoes arriving at the port of New York in distress, or damaged in said port of New York, and shall be the judges of its fitness to be reshipped to its port of destination, or whether it shall be sold for the benefit of whom it may concern; they shall also, if called upon so to do, estimate the value or measurement of any vessel when the same is in dispute or libeled, and record the same in the books of said office.

Id. §3.
Comp. 1710,
Duties of
warden.
17 N. Y. 141.

§ 2088. It shall be the duty of said board, or some one of them, on being notified and requested so to do by any of the

1858, ch. 405, §4,
Comp. 1711.

Damaged
goods.

parties in interest, to proceed in person to any warehouse, store or dwelling, or in the public streets, or on the wharf, and examine any merchandize, vessels' materials, or other property said to have been damaged on board of any vessel, and inquire, examine and ascertain the cause or causes of such damage, and make a memorandum thereof of such property, and record in the books of said office a full and complete statement thereof; and it shall be the duty of the said board, when so requested, to furnish a certificate of any record in the books of said office to any party interested therein, upon their paying to the said board the regular fee for said certificate. All certificates issued shall be under the seal of said office, and signed by the president, or vice-president and secretary, and said certificate shall be evidence of the existence and contents of such record in any court of this State, in all cases of inquiries, examinations and surveys relating to vessels, and cargoes on board thereof, as specified in this chapter. The said board shall give notice to all persons interested in or having charge of the subject matter of such inquiry, examination or survey, by advertisement in at least two daily newspapers printed and published in the city of New York, of the pendency of such inquiry, examination or survey, and of the time and place of completing the same, the expense whereof shall be added to and paid with the fee for making such inquiry, examination or survey.

1866, ch. 406, §5,
Comp. 1711.
Attend sales.

§ 2089. It shall be the duty of said board, or some one of the members thereof, to attend, personally, all sales of vessels, when condemned, vessels' materials, and goods in a damaged state, which shall be sold at public auction in the port of New York by reason of such damage for the benefit of owners or underwriters, or for account of whom it may concern; and it shall be the duty of auctioneers making such sales to give due notice thereof to said board before the sale, and all such sales shall be made by auctioneers under the direction and by order of the wardens, for which service they shall be entitled to receive a commission of one-half of one per cent. on the gross amount of sales thereof, to be paid to said board of wardens on demand, by the auctioneer making such sale, and such property shall be exempt from the payment of auction duties to the State; and it shall be the duty of auctioneers to make monthly statements to said board, specifying the total amount of each day's sale made by them under this section, which statement shall be filed in said warden's office, and the wardens, when required by the owner or consignee thereof, shall certify the cause of such damage, the amount of such sale, and the charges on the same, all of which shall be recorded in the books of said office; and the said board of wardens shall be allowed for each and every survey

held on board of any vessel on hatches, stowage, or cargo, or damaged goods, or at any warehouse, store, or dwelling, or in the public street, or on the wharf, within the limits of the port of New York, on goods said to be damaged, the sum of two dollars, and for each and every certificate given in consequence thereof, the sum of one dollar, and for each and every survey on the hull, spars, sails or rigging of any vessel damaged or arriving at said port in distress the sum of five dollars, and for each and every certificate given in consequence thereof the sum of two dollars and fifty cents, and for each valuation or measurement of any vessel the sum of ten dollars, and the compensation and emoluments of said office shall be divided equally between the said nine wardens composing the board under this chapter.

§ 2090. It shall be unlawful for any person or persons, except the port-wardens duly appointed under this chapter, to assume to act as port-wardens, or to undertake the performance of any of the duties prescribed in this chapter, or pertaining to the said office of port-warden; and it shall be unlawful for any person or persons to employ any other than the legally appointed wardens for the performance of such duties; and it shall also be unlawful for any person or persons to issue certificates of surveys on vessels, vessels' materials, or goods damaged, with the intent to defeat or avoid the provisions of this chapter; and any person or persons violating the provisions of this chapter shall be deemed guilty of a misdemeanor, and shall forfeit and pay to the wardens a penalty of one hundred dollars for each offense committed, and the said board of wardens or their successors in office may, in their proper name and title, sue for and recover in any court in this State having cognizance thereof their legal fees, or the penalty of this chapter, for any violation of the laws appertaining to the duties of the port-wardens of the port of New York.

Id. §6.
Comp. 1712.
1 Barb. ch. 519.
Penalties.

Penalty for
violation.

§ 2091. The governor shall nominate, and by and with the consent of the senate appoint, two special wardens, who shall reside at quarantine, and whose duty it shall be to act as wardens only in regard to vessels and goods that are actually under and subject to quarantine detention, and their duties shall not apply to vessels stopping at quarantine for the purpose only of visitation by a health officer, and not detained. Said wardens shall be appointed for the term of three years. Such special wardens shall make returns in detail of all surveys made by them, and of all other duties by them performed, to the wardens' office in the city of New York, within forty-eight hours after such survey is made or such service performed; and all rules and regulations adopted by the board of wardens shall apply to and govern said special wardens in discharge of their duties at quarantine. The

1858, ch. 405, §7.
Comp. 1712.
Special
wardens at
quarantine.

special wardens at quarantine shall be allowed and entitled to receive for each and every survey or examination made by them the sum of five dollars, and the compensation and emoluments of said office shall be divided equally between the said special wardens, share and share alike.

Id. §§.
Comp. 1713.
Receipts.

§ 2092. The said board of port-wardens shall keep a full and accurate account of all their receipts and expenditures, and transmit to the comptroller a true copy thereof annually on the first Monday of January in each year, and which copy shall be verified by the oaths of the president and secretary of said board, and each warden shall append to such account an affidavit that he has not taken or received any money or goods as presents, directly or indirectly, for services as warden, except the legal fees.

CHAPTER XXVIII.

PILOTS AND PILOTAGE.

Title 1.—Sandy Hook Pilots.

1853, ch. 467.
§§ 1, 2, 3, 4.
Comp. 1638.
Board of commissioners.
See 1863, ch. 358, § 4, relating to quarantine imposes a duty on pilots; 45 N. Y. 446; 59 N. Y. 131.
Three commissioners to be elected by Chamber of Commerce.
Two commissioners to be elected by president and vice-president of the marine insurance companies, New York.

§ 2093. There shall continue to be, in the city of New York, a board entitled "the board of commissioners of pilots," consisting of five persons, to hold their offices, respectively, for two years from the time of their election, and until others shall be elected. Three of such commissioners shall be elected by the members of the Chamber of Commerce of the city of New York, at a meeting to be called for the purpose, to be specified in the notice for the meeting; and the certificate of the secretary of that body, or other officer regularly performing his duties for the time being, shall be prima facie evidence of such election. Two other of such commissioners shall be elected by the presidents and vice-presidents of the marine insurance companies of the city of New York, composing or represented in the board of underwriters of said city, at a regularly convened meeting of such board, on the notice of their secretary, stating that the election of commissioners will take place, or of some member of the board, by them duly authorized, given in writing, at least one day before the election, stating that the election of commissioners will take place, and delivered at the office of such company. Each insurance company represented at such meeting shall be entitled to one vote, and the certificate of the secretary of such board, or of any officer acting in his stead, shall be sufficient prima facie evidence of an election.

on or attend in any manner, or furnish refreshments to the audience or spectators, or any of them, at any of the exhibitions or performances mentioned in said section, or at any other place of public amusement in the city of New York.

§ 2011. No license shall be granted for any exhibition or performance given in violation of the preceding section, and any and every exhibition or performance at which any of the provisions of the said section shall be violated, shall of itself vacate and annul and render void and of no effect any license which shall have been previously obtained by any manager, proprietor, owner, or lessee consenting to, causing or allowing or letting any part of a building for the purpose of such exhibition and performance.

Id. §3.
In certain cases
no license
given.
In certain cases
annulled.

§ 2012. Any person violating any of the provisions of the two preceding sections, or employing or assenting to the employment or attendance of any person contrary to the provisions of said sections, shall be deemed guilty of a misdemeanor, and upon conviction, shall be punished by imprisonment in the penitentiary for a term not less than three months nor more than one year, or by a fine not less than one hundred dollars, nor more than five hundred dollars, or by both such fine and imprisonment.

Id §4.
Violation of act
a misdemeanor.

§ 2013. It shall be the duty of the superintendent of police, every sheriff, deputy sheriff, constable, captain of police, policeman and every other police officer, to enter at any time said places of amusement, and to arrest and convey any person or persons violating any provision of the three preceding sections, forthwith, before any police justice or recorder or magistrate having jurisdiction in said city, there to be dealt with according to law.

Id §5.
Duty of chief
of police and
other officers.

§ 2014. The owner, lessee, manager, or other person or persons, having charge or control of any theatre shall cause each and every door and means of exit to be used in case of fire or panic to be conspicuously numbered so as to be visible to the audience by whom the same may be used, and shall have or cause to be printed in conspicuous type a plan or diagram, and explanation, showing each of said exits thereon and referring to the numbers aforesaid, and the same shall be printed in conspicuous type as aforesaid on the programme or bill of the play. Any and all persons who shall violate any of the provisions of this section, or fail to comply therewith, or any requirement thereof, shall severally, for each and every violation and non-compliance, respectively forfeit and pay a penalty in the sum of fifty dollars; to be sued for and recovered in the same manner as violations of the building laws in the city of New York are now sued for and recovered by the fire department.

1880, ch. 279, §§1,
2.
Doors to be
numbered and
diagram
printed on
programme.

Penalty for
failure to
comply with
this act.

Upon the expiration of the term of office of any commissioner or commissioners, or within thirty days prior thereto, and upon any vacancy occurring by death, resignation, removal from the State, or other cause, another election for the term of two years shall be made by the same class of persons or authority as that which made the election to the office so expiring or becoming vacant.

Election in case of vacancy of commissioners.

§ 2094. Each commissioner, before entering upon the duties of his office; shall take the usual oath of office before an officer authorized to administer oaths, which oath or affirmation shall be filed, without delay, in the office of the clerk of the city and county of New York.

Id. §5.
Oath of office.

§ 2095. The commissioners shall appoint a secretary, who shall take a like oath, to be filed in like manner, as provided in the preceding section; and they may remove him at any time and appoint another; and shall prescribe his duties and compensation. The board shall establish an office in some convenient and proper place in the city of New York, where the commissioners shall meet on the first Tuesday of every month, and as much oftener by adjournment, or upon a notice given by any one of them, or by the secretary, as circumstances may require.

Id. §6.
Secretary.

Id. §7.
Office to be established.

• § 2096. The commissioners shall require their secretary in person, or by deputy, to be in daily attendance at their office on all ordinary business days, during reasonable office hours, and shall cause to be kept by him a proper book or books, in which shall be written all the rules and regulations made by them, and all their official transactions and proceedings, and whatever else may be deemed by them proper and useful and immediately pertaining to their duties or to the pilot service. They shall also cause to be kept, by their secretary, a register of the names and places of residence of all the pilots who may be licensed by them, with the dates of their licenses respectively, and such books may be inspected by any person interested.

1868, ch. 467, §8,
Comp. 1889.
Duties of secretary.

§ 2097. The commissioners, or a majority of them, shall license, for such term as they may think proper, so many pilots as they may deem necessary for the port of New York; and such commissioners may specify in such licenses different degrees of qualifications appropriate to different parts or branches of duty, according to the competency of the applicant. No license shall be granted to any person holding any license or authority from or under the authority of laws of any other State, and the said commissioners, or a majority of them, shall have the power and authority to revoke and annul the license of any person so licensed by them to act as pilot who shall not be attached to a boat approved of by said board, or who shall be guilty of any intoxication or other misconduct while on duty.

Id. §9,
as amended
1864, ch. 194, §1.
Licensing pilots.

Id. §10.
Comp. 1640.
Examination to
be made before
granting
license.

§ 2098. It shall be the duty of the said commissioners, before they shall grant a license to any person applying therefor to act as a pilot in pursuance of this title, within one week thereafter to call such applicant before them, and in presence of one or more of the pilots of the said port, licensed to pilot vessels to and from the said port by the way of Sandy Hook, who shall be notified to attend for the purpose, and who are hereby required to attend and assist in such examination; or in case of the non-attendance of the pilot or pilots who shall be so notified to attend for that purpose, then, without the presence or assistance of any licensed pilot, to examine, or cause to be examined, such applicant, touching his qualifications for the office of a pilot, and in particular touching his knowledge of the sailing and management of a square-rigged vessel, and also touching his knowledge of the tides, soundings, bearings and distances of the several shoals, rocks, bars, and points of land and night lights in the navigation for which he applies for a license to act as a pilot, and touching any other matter relating thereto which the said commissioners may think proper. And if, upon examination, the person so applying shall be found to be of good moral character and temperate habits, and to be possessed of sufficient ability, skill and experience to act as a pilot, and not otherwise, the said commissioners may grant him a license for piloting vessels to and from the port of New York by the way of Sandy Hook.

Id. §11.
Recognizance
to be given.

§ 2099. The commissioners, before granting licenses, shall require all pilots to enter into recognizance to the people of this State, with two sureties, to be approved by such commissioners, or a majority of them, each in a penalty not exceeding five hundred dollars, conditioned that the pilot shall diligently and faithfully perform his duties as pilot, and observe the rules and regulations and decisions of the board; and every such recognizance shall be prosecuted in the name of the people of the State of New York, by or in behalf of the commissioners, provided a majority of them shall so instruct, and if any amount be collected in such suit it shall be paid to the said commissioners, and they may direct the same to be applied for purposes as expressed in section eighteen hundred and ninety-seven.

1853, ch. 467.
§12, Comp. 1641,
as amended
1855, ch. 196, §2.
Regulation of
pilot-boats and
pilotage.

§ 2100. The said commissioners, shall have the power to regulate the stationing of pilot boats for the purpose of receiving pilots from outward-bound vessels, and may alter or amend any existing regulations for pilots, and make and duly promulgate and enforce new rules or regulations, not inconsistent with the laws of this State, or of the United States, which shall be binding and effectual upon all pilots licensed by them, and upon all

parties employing such pilots. They may declare and enforce forfeitures of pilotage upon any mismanagement or neglect of duty by the pilots licensed by them; they may declare and impose and collect fines and penalties, not exceeding two hundred and fifty dollars for each offense, to prevent any of the pilots licensed by them from combining injuriously with each other, or with other persons, and to prevent any person licensed by them from acting as a pilot during his suspension, or after his license may be revoked; and the said commissioners may establish and enforce all other needful rules and regulations for the conduct and government of the pilots licensed by them, and the parties employing them; and they may enforce and receive accounts of all moneys collected for pilotage by the pilots licensed by them, and may impose and collect from such pilots a sum not exceeding three per cent. on the amount thereof, to defray their necessary expenses, including clerk hire and office rent. Any pilot bringing in a vessel from sea shall, by himself or one of his boat's company, be entitled to pilot her to sea when she next leaves the port, unless, in the meantime, a complaint for misconduct or incapacity shall have been made against such pilot, or one of his boat's company, and proved before the board of commissioners of pilots; provided, however, that if the owner of any vessel shall desire to change such pilot, then the said commissioners may assign any other pilot on the same pilot boat to pilot said vessel to sea.

1867, ch. 930, §1.
Comp. 1641.

§ 2101. The fees for piloting are hereby established as follows:

1853, ch. 467, §13,
Comp. 1641.
as amended
1854, ch. 196, §3;
1865, ch. 137, §1;
1870, ch. 548, §2.
Fees of pilots.

For every merchant vessel, inward bound, and not exempted from pilotage by virtue of these regulations, drawing less than fourteen feet of water, three dollars and seventy cents per foot.

For every vessel drawing fourteen feet, and less than eighteen feet of water, four dollars and fifty cents per foot.

For every vessel drawing eighteen feet, and under twenty-one feet of water, five dollars and fifty cents per foot.

For every vessel drawing twenty-one feet of water and upward, six dollars and fifty cents per foot. If the master or owners of any vessel shall request the pilot to moor said vessel at any place within Sandy Hook, and not to be taken to the wharf or harbor of New York, or the vessel to be detained at quarantine, the same pilotage shall be allowed, and the pilot entitled to his discharge.

For piloting national armed vessels of the United States, and also those of foreign nations seven dollars and fifty cents per foot. When any ship or vessel, bound to the port of New York, is boarded by any pilot appointed by this board, at such distance to the southward or eastward of Sandy Hook light-house as that

said light-house could not be seen from the deck of such ship or vessel in the day time, and in fair weather, the addition of one-fourth to the rates of pilotage hereinbefore mentioned shall be allowed to such pilot.

1853, ch. 467, §14,
as amended
1854, ch. 196, §4;
1865, ch. 137, §2;
1870, ch. 548, §2,
Comp. 1642.

§ 2102. The pilotage on merchant vessels outward shall be as follows :

For every vessel drawing less than fourteen feet of water, two dollars and seventy cents per foot.

For every vessel drawing fourteen feet, and less than eighteen feet of water, three dollars and ten cents per foot.

For every vessel drawing eighteen feet, and less than twenty-one feet of water, four dollars and ten cents per foot.

For every vessel drawing twenty-one feet of water and upward, four dollars and seventy-five cents per foot.

Id. §15.
Rates of
pilotage.

§ 2103. The rates of pilotage for any intermediate distance shall be determined by the board of commissioners, and promulgated in their rules and regulations for the government of pilots.

Id. §16.
Addition to full
pilotage.

§ 2104. Between the first day of November and the first day of April, inclusive, four dollars shall be added to the full pilotage of every vessel coming into or going out of the port of New York.

1857, ch. 248, §1, 2
Comp. 1645.
§3 N. Y. 249.

§ 2105. For every day of detention in the harbor of an outward-bound vessel, after the services of a pilot have been required and given, except detention shall be caused by such adverse winds and weather that the vessel cannot get to sea ; and for every day of detention of an inward-bound vessel, by ice, longer than two days for passage from sea to wharf, three dollars shall be added to the pilotage. If any pilot shall be detained at quarantine or elsewhere, by the health officer, for being or having been on board a sickly vessel as pilot, the master, owner or agent, or consignee of such vessel, shall pay to such pilot all necessary expenses of living and three dollars per day for each and every day of such detention. This section shall not apply to vessels propelled wholly or in part by steam, owned or belonging to citizens of the United States, and licensed and engaged in the coasting trade.

1853, ch. 467, §17,
Comp. 1642.
Forfeiture for
detention.

§ 2106. For every day of detention at the wharf, or in the harbor, beyond the time notified to the pilot for him to attend the vessel, or beyond the usual time of getting vessels from sea to the wharf, and from the wharf to sea; and for every day of detention of an inward-bound vessel by ice, longer than two days for the passage from sea to wharf, three dollars shall be added to the pilotage. If any pilot shall be detained at quarantine by the health officer, for having been on board a sickly vessel as pilot, the master, owner, agent, or consignee of such ves-

sel, shall pay to such pilot all necessary expenses of living, and three dollars per day for each and every day of such detention. This section shall not apply to vessels embraced in the preceding section.

§ 2107. For services rendered by pilots in moving or transporting vessels in the harbor of New York, the following shall be the fees: For moving from North to East river, or vice versa, if a seventy-four gun ship twenty dollars, if a sloop of war ten dollars, if a merchant vessel five dollars, except such vessel shall have arrived from sea, or is ready for and bound to sea on the day such services for transportation are rendered; but if the services are rendered thereafter such payment shall be made. For moving any vessel from the quarantine to the city of New York, one-quarter of the sum that would be due for the inward pilotage of such vessel. For hauling any vessel from the river to a wharf, or from a wharf into the river, three dollars, except on the day of arrival or departure of such vessel. The provisions of this section shall not apply to vessels propelled wholly or in part by steam, owned or belonging to citizens of the United States, and licensed and engaged in the coasting trade.

1857, ch. 243, §1.
Comp. 1645.
For transport-
ing vessels in
harbor.

Moving from
quarantine.

1857, ch. 243, §2.
Comp. 1646.
Steam vessels,

§ 2108. For services rendered by pilots in moving or transporting vessels in the harbor of New York other than those embraced in the preceding section, the following shall be the fees:

1853, ch. 467, §21.
Comp. 1643.
Pilots' fees for
removing or
transporting
vessels.

For moving from North to East river, or vice versa, a merchant vessel, five dollars.

For moving any vessel from quarantine to the city of New York, one-quarter of the sum that would be due for the inward pilotage of such vessel.

For hauling any vessel from the river to wharf, or from a wharf into the river, three dollars.

§ 2109. The pilotage shall be payable by the master, owner, consignee or agent entering or clearing the vessel at the port of New York, who shall be jointly and severally liable therefor.

Id. §18.
Pilotage, how
payable.

§ 2110. A pilot who is carried to sea when a boat is attending to receive him shall receive at the rate of one hundred dollars per month during his necessary absence.

Id. §19.
Pay of pilots
when carried to
sea.

§ 2111. Masters of vessels shall give an account to the pilot when boarding, of the draught of such vessels; and in case the draught given is less than the actual draught, the master shall forfeit the sum of twenty-five dollars, which may be sued for and recovered by the commissioners, as is provided in section twenty-one hundred and twenty-three in respect to other fines and penalties.

Id. §20.
Masters of ves-
sels to account
to pilots.

1853, ch. 467, §22.
Comp. 1643.
Rewards.

§ 2112. It shall be the duty of the commissioners, out of any funds which may be obtained, to provide rewards to encourage the prompt relief of disabled vessels and the speedy report of the same, and generally to encourage not only the energetic performance of duty, but benevolent and praiseworthy efforts to relieve vessels and passengers from distress or suffering.

Id. 23,
as amended
1854, ch. 196, §6.
Suspension of
pilots.

§ 2113. The commissioners shall have power and authority, at any time, to suspend any pilots so licensed for any period they may think proper, and also to revoke and annul any license which shall have been granted, upon satisfactory proof of negligence or carelessness on the part of such pilot, or of willful dereliction of duty or of willful disobedience of any lawful rule or regulation duly made and promulgated by said commissioners; but the pilot or pilots so suspended may at any time, upon due notice, appeal to the commissioners for a rehearing of their case, and the commissioners shall have power to confirm or reverse the previous act or decision of the said board.

Id. §24.
Commissioners
to hear and
examine
complaints.

§ 2114. It shall be the duty of the commissioners to hear and examine all complaints duly made in writing against any pilot licensed by them, or against any person connected with a boat of such pilot, for any misbehavior or neglect of duty, or breach of their rules or regulations, that shall appear to them material to be investigated; and also all complaints made in like manner by any licensed pilot against any master, owner or seaman of a vessel, for any misbehavior towards such pilot in the performance of his duty, or any breach of such rules or regulations.

1853, ch. 467,
§25, Comp. 1643.
Before com-
plaint or sus-
pension, per-
sons must be
notified.

§ 2115. Before any person shall be proceeded against on any complaint, and before any pilot be suspended longer than for one month, or be removed, such person or pilot shall be notified, in writing, signed by the secretary, to appear before the commissioners, specifying the nature and substance of such complaint, which notice shall be served, personally, at least five days before the time fixed for appearance, and the commissioners for just cause shall postpone or adjourn the hearing from time to time. A certificate of such commissioners, or of a majority of them, with proof of such service of notice, shall be prima facie but not conclusive evidence that the party upon whom the notice was served, and a fine or penalty thereupon imposed, is liable to pay such fine or penalty.

Id. §26,
Comp. 1644.
Subpoenas.

§ 2116. The secretary, under the supervision of the commissioners, shall, at the instance either of the complaining or defending party, issue subpoenas for compelling the attendance of witnesses to testify before the commissioners, in all cases in which the power to hear and examine is conferred by this title; and it shall be the duty of the commissioners to examine all such witnesses on oath, to be administered by

them, as shall appear to them to give material testimony ; and each person subpoenaed as a witness shall be entitled to the like compensation from the party requiring his attendance, and be subject to the like penalties and punishments for disobedience, or for false swearing, as in civil suit at law in a court of record.

§ 2117. The decision of a majority of the commissioners shall be conclusive upon all questions arising under this title, except as hereinbefore provided. In case of an omission to fill any vacancy in the board of commissioners for one month, the remaining two or three commissioners (as the case may be) shall have authority to perform all the duties of the commissioners for the time being.

Id. §27.

§ 2118. It shall be the duty of the secretary, and his clerks if any, when not employed under the foregoing provisions of this title, to aid the licensed pilots in keeping their accounts of pilotage, and in collecting the same, if desired, and in keeping a register of calls for pilots.

Id. §28.
Secretary and clerks.

§ 2119. No master of any vessel navigated under a coasting license and employed in the coasting trade, by the way of Sandy Hook, shall be required to employ a licensed pilot when entering or departing from the harbor of New York ; but this provision shall not be construed to alter the legal rate of compensation of any pilot who may be so employed ; but in case the services of a pilot shall have been given, the pilot shall be entitled to the rates established by this title. If the master of any vessel above one hundred and fifty and not exceeding three hundred tons burden, and owned by a citizen of the United States, and sailing under a coasting license to or from the port of New York, by the way of Sandy Hook, shall be desirous of piloting his own vessel, he shall first obtain a license for such purpose from the commissioners of pilots, who are hereby authorized and required to grant the same, if such master shall, after an examination had by said commissioners, be deemed competent ; which said license shall be and continue in force one year from the date thereof, or until the determination of any voyage during which the license may expire. For such license, the master to whom it shall be granted shall pay to the said commissioners four cents per ton. All masters of foreign vessels and vessels from a foreign port, and all vessels sailing under register, bound to or from the port of New York by the way of Sandy Hook, shall take a licensed pilot ; or, in case of refusal to take such pilot, shall himself, owners or consignees, pay the said pilotage as if one had been employed ; and such pilotage shall be paid to the pilot first speaking or offering his services as pilot to such vessel. Any person not holding a license as pilot under this

1870, ch. 548, §1.
Comp. 1646.
Proviso as to vessels employed in coasting trade.
1857, ch. 233, §1.
Comp. 1645.
Masters may obtain license.Fees for license.
4 Daly, 318.

In case of Refusal.

Persons not holding a license.
52 N. Y. 609;
45 id. 446;
39 id. 131.

Penalty.

title, or under the laws of the State of New Jersey, who shall pilot, or offer to pilot, any ship or vessel to or from the port of New York by the way of Sandy Hook, except such as are exempt by virtue of this title, or any master, or person on board a steam tug or tow boat, who shall tow such vessel or vessels, shall be deemed guilty of a misdemeanor, and, on conviction, shall be punished by a fine not exceeding one hundred dollars, or imprisonment not exceeding sixty days; and all persons employing a person to act as pilot, not holding a license under this title, or under the laws of the State of New Jersey, shall forfeit and pay to the board of commissioners of pilots the sum of one hundred dollars. This section shall not apply to vessels propelled wholly or in part by steam, owned or belonging to citizens of the United States, and licensed and engaged in the coasting trade.

1853, ch. 467,
§23, as amended
1864, ch. 196, §8,
Comp. 1644.
Piloting with-
out license.
60 N. Y. 249;
12 N. Y. 609.

§ 2120. Any person not holding a license as pilot under this title, or under the laws of the State of New Jersey, who shall pilot or offer to pilot any ship or vessel, not embraced in the preceding section, to or from the port of New York, by the way of Sandy Hook, shall be deemed guilty of a misdemeanor, and on conviction shall be punished by a fine not exceeding one hundred dollars, or imprisonment not exceeding sixty days; and all persons employing a person to act as pilot not holding a license under this title, or under the laws of the State of New Jersey, shall forfeit and pay to the board of commissioners of pilots the sum of one hundred dollars.

1863, ch. 358, §24,
Comp. 1622.
Duty of pilots.

§ 2121. It shall be the duty of each branch and deputy pilot belonging to the port to use his utmost endeavors to hail every vessel he shall discover entering the port, and to interrogate the master of such vessel in reference to all matters necessary to enable such pilot to determine whether such vessel be subject to quarantine.

Id. §25,
as amended
1865, ch. 592, §8,
Comp. 1623.
Duty of pilots
in certain cases.

§ 2122. If from the answers obtained from such inquiries it shall appear that such vessel came from a port where any quarantinable disease existed at the time of her departure, or that any case of such disease shall have occurred on board of her during the passage, the pilot shall immediately direct the master of the vessel to proceed and anchor such vessel at the quarantine anchorage in the lower bay. In other cases of vessels liable to quarantine he shall direct the masters thereof to proceed and anchor such vessels at such point as shall be assigned by the quarantine commissioners as an anchorage for such vessels.

1865, ch. 712, §1,
Comp. 1647.
Action, how
prosecuted.

§ 2123. All actions and proceedings by the commissioners of pilots to enforce any liability or to recover any fines, penalties or forfeitures given by law to such officers, or to the board of commissioners of pilots, may be brought and prosecuted by such

officers in the name of the board of commissioners of pilots; and wherever by law, any notice is required to be given by said officers, or by the said board, a notice, signed by the president for the time being of the board, and containing a copy of the section under or in pursuance of which such notice is given, shall be a sufficient compliance with the requirements of the law in respect to the giving of such notice; provided the said board shall, by the vote of a majority thereof, within twenty days after the giving of such notice, ratify and adopt the same as the act of said board; but this section shall not apply to any notice to be given in the progress of any action or special legal proceedings.

Proceedings of
board thereon.

Title 2.—Hell Gate Pilots.

§ 2124. There shall be appointed, in the manner hereinafter directed, fit and proper persons to act as pilots for the safe pilotage of vessels through the channel of the East river, commonly called Hell Gate, who shall be known as Hell Gate pilots, and hold their offices during good behavior; and all those who, on April fifteenth, eighteen hundred and forty-seven, were pilots by the way of Hell Gate, shall be considered as pilots under this title.

1847, ch. 69 §1.
Comp. 1648.
Pilots to be
appointed.
10 Abb. 30.

§ 2125. All pilots hereafter to be appointed shall be appointed by the governor, by and with the consent of the senate, and shall be commissioned by the governor in like manner as all other persons appointed to office by him with the consent of the senate. It shall be the duty of the board of wardens of the port of New York to recommend such suitable and experienced persons to act as such pilots as shall apply for such recommendation, and to make a list of the person or persons so recommended; which list shall be transmitted to the governor of the State, whose duty it shall be to present the same to the senate for their confirmation or rejection. It shall not be lawful for any Hell Gate pilot to take any apprentice in his said trade or profession of Hell Gate pilot.

Id. §2.
To be commis-
sioned on rec-
ommendation
of wardens.

Id. §19, as
amended 1871,
ch. 298. §1.
Taking of
apprentices
prohibited.

§ 2126. The board of wardens of the port of New York shall have power and authority to make and establish such rules, orders and regulations, not inconsistent with the constitution and laws of this State, or of the United States, or of the provisions of this title, for the better government of said pilots; and with such fines and penalties for the breach thereof as the said board of wardens may from time to time direct; and to revoke, annul or alter the same as often as they may deem proper and expedient. Said board of wardens shall have such rules, orders and regulations entered at length upon the minutes of said board, and shall furnish to each of said pilots a copy of said rules,

Id. §3.
Wardens to
establish rules.

orders and regulations, and shall furnish each of said pilots with a copy of any additional rule, order or regulation, or of any abrogation, alteration or amendment thereof.

Id. §4.
Comp. 1649.
To have cognizance of complaints.

§ 2127. Said board of wardens shall have cognizance of all complaints made against any or either of said pilots for official misconduct. Upon the reception of any complaint as aforesaid, against either of said pilots, it shall be the duty of said board of wardens to furnish the pilot complained of with a copy, in writing, of said cause of complaint; which copy shall contain, as near as may be, a full specification of the charges preferred against said pilot, with a notice affixed thereto of the time (not less than six days) and place, when they, the said board of wardens, may or shall require said pilot to appear before said board to answer the charges made against him; but no charge shall be received unless the same is verified by the oath of the person preferring the same. Upon said pilot appearing before the board of wardens it shall be their duty to take testimony and to examine into the facts and circumstances of the case, and if after a full hearing of the case, and of competent proof, tending to establish said charge, a majority of the whole board of wardens shall deem said pilot guilty of official misconduct, they, the said board of wardens, shall have full power and authority to suspend said pilot. It shall be the duty of said board of wardens to transmit to the governor of this State, within ten days after such suspension, a full account of their proceedings in the premises with a copy of the complaint and specifications, and also a copy of the testimony taken in the case. It shall be the duty of the governor, upon a review of the whole matter, either to remove the said pilot from office, or to annul or confirm his suspension, as to him shall appear just and proper in the premises.

1847, ch. 69, §5,
Comp. 1649.
Pilots to keep two or more deck boats.

§ 2128. It shall be the duty of the said pilots to keep two or more good and sufficient deck boats, of not less than twenty tons burden, on the East river, and no more than seven pilots shall be interested in one deck boat; and no person who is not a regularly licensed Hell Gate pilot shall own any part of any boat engaged in the said pilot business, under the pain of a forfeiture of such parts or shares owned by him, to be sued for and recovered by the said board of wardens; and all deck boats belonging to said Hell Gate pilots shall be registered in the office of the said board of wardens.

Id. §6.
Comp. 1650.
Rate of pilotage to be charged.

§ 2129. It shall be lawful for any such pilot to demand and receive from any person who shall employ any of them to pilot any vessel of the burden of ninety-five tons and upwards, or from the consignee or owner of said vessel, from the eastward of Sand's Point or Execution Rocks, or take charge of any such vessel at or to the eastward of Sand's Point or Execution Rocks,

and pilot her to the port of New York, or to pilot her from the port of New York to Sand's Point or Execution Rocks, for every vessel, one dollar and fifty cents for each and every foot of water such vessel may draw ; and from the eastward of Hell Gate to the port of New York one dollar for each and every foot of water such vessel may draw ; and for pilotage from the port of New York to the eastward of either of the before mentioned points or places they shall be entitled to receive the same compensation as is above provided when the said vessel is bound to the port of New York. And every pilot shall, for such such services, be entitled, in addition to the above-mentioned rates of compensation, to demand and receive the further sum of twenty-five cents for each and every foot of water which any square-rigged vessel may draw which they shall pilot to or from the port of New York ; and every such pilot who shall have piloted any ship or vessel into the port of New York by the way of Hell Gate shall be entitled to a preference in piloting the said ship or vessel out of the said port on the next outward voyage of the said ship or vessel, if the said voyage be by the way of Hell Gate. And further, from the first day of November to the first day of April in every year, every such Hell Gate pilot shall be entitled to demand and receive for every ship, barque or brig the sum of two dollars, and for every schooner or sloop the sum of one dollar, in addition to the rates of compensation for pilotage hereby established. But no pilotage shall be charged to any vessel under a coastwise license unless such vessel actually employs a pilot. And every master or commander of any vessel who shall give to such Hell Gate pilot an untrue account of the draught of water or tonnage of his vessel shall forfeit and pay the sum of twenty-five dollars, to be sued for and recovered by the said board of wardens.

1881, ch. 498.

§ 2130. A person other than a lawfully authorized branch Hell Gate pilot, who pilots, or offers to pilot, or tows or offers to tow, any boat or vessel (except barges, vessels under fifty-five tons burden, and canal boats actually used in navigating the canals), through that part of the East river commonly called Hell Gate, is guilty of a misdemeanor. This section does not apply to vessels propelled wholly or partly by steam, owned or belonging to citizens of the United States, and licensed and engaged in the coasting trade.

1881, ch. 678,
§§ 398, 399.
Unlicensed
piloting.Coasting
steamers ex-
cepted.

§ 2131. Any of said Hell Gate pilots, who shall first tender his services, may demand and receive from the master, owner, or consignee of any vessel of the burden of one hundred tons and upward, navigating the said channel of Hell Gate, to whom he shall have tendered his services as a pilot, and by whom the same shall have been refused, whether outward or inward

1847, ch. 69, § 7,
as amended
1871, ch. 298, § 2,
Comp. 1650.
Pilots first ten-
dering services,
if refused, to
receive one-
half pilotage.

Not to be chargeable more than once.

When to apply to certain vessels under coastwise license:

Proviso as to government vessels.

Id. §8.
Comp. 1851.
Allowance for extra service.

Id. §10,
as amended
1895, ch. 115, §4.

1882, ch. 156, §11.
Comp. 1883.
Pilotage refused, how to be recovered.

bound, one-half pilotage for every foot of water such vessel may draw; which half pilotage shall be the one-half of the rates of compensation established by the preceding section. But such half pilotage shall not be chargeable to any vessel under one hundred tons burden sailing under coastwise license, and shall not be chargeable more than once for the same passage to any vessel; and in case any such vessel under one hundred tons burden, navigating the said channel to or from the port of New York, shall make the usual signal for a pilot, and shall refuse to receive on board or employ such pilot when he shall have tendered his services, then the master, owner or consignee of such vessel shall pay to such Hell Gate pilot such half pilotage from the place at which such pilot shall have so offered his services. Any pilot who shall pilot any government vessel through the said channel shall be entitled to receive the same compensation therefor as is provided by law for like services in piloting such vessel to or from the port of New York by the way of Sandy Hook.

§ 2132. The master, owner, or consignee of any ship or vessel, to whom any Hell Gate pilot shall have rendered, upon the request of the master of said ship or vessel, any extra service for the preservation of said ship or vessel while in distress, shall pay to said pilot, in addition to the compensation set forth in the last section but one, such amount for extra services as the board of wardens shall determine to be a reasonable reward; and for every day which any Hell Gate pilot shall be detained on board any ship or vessel, over and above twenty-four hours, he may demand and receive from the master, owner, or consignee of said vessel two dollars a day for each and every day he shall be so detained.

§ 2133. This title shall not be construed to apply to the passenger steamboats plying on regular passenger routes this side or to the westward of Cape Cod. And all foreign vessels, and vessels under register navigating the channel of Hell Gate, who shall be spoken, shall be subject to the pilotage fees, as provided in section twenty-one hundred and thirty, to the first pilot who tenders his services.

§ 2134. The pilotage authorized to be collected whenever a pilot shall be refused by a vessel navigated by steam, shall be sued for and recovered in the name of the port-wardens of the port of New York, before any district court, or before any justice of the peace; and such half pilotage, when recovered, after paying necessary costs and charges, shall be deposited in a savings bank of said city, and constitute a charitable fund, to be disposed of for the benefit of indigent widows and orphan

children of deceased Hell Gate pilots, under the direction of said wardens.

§ 2135. If any pilot shall misbehave, when in the execution of his duty, it shall and may be lawful to and for the board of wardens, on complaint thereof made to them, to appoint a time and place of hearing, whereof fifteen days' notice shall be given to such pilot, and on due proof being made to the said board of wardens, to their satisfaction, of misbehavior of such pilot, to fine such pilot therefor in any sum not exceeding twenty five dollars, or to suspend him for any term which the said board may think proper: Provided always, that nothing herein contained shall be so construed as to prevent the owner or consignee of such vessel, or any other person or persons, from recovering his or their damages, if any, by occasion of such misbehavior of such pilot in any court having cognizance of the same.

1819, ch. 18, §14, Comp. 1654.
Pilots or deputies who misbehave to be fined or suspended.

Proviso.

§ 2136. If any pilot shall negligently or carelessly lose any vessel under his care, and be thereof convicted by due course of law, he shall forever after such conviction be incapable of acting as a pilot or a deputy pilot in this State; and if any pilot shall run any vessel on shore he shall not be entitled to any pilotage for such vessel.

1819, ch. 18, §15, Comp. 1654.
Punishment of pilot for losing a vessel.

§ 2137. In case of the suspension of any pilot, such pilot so suspended shall forthwith deliver up his branch or license to the said board of wardens to be by them kept until the time for which he shall be so suspended shall be expired, under the penalty of one hundred dollars for each and every refusal so to do.

Id. §16.
On suspension to deliver up license.

§ 2138. The wardens, or either of them, or any other person not being a branch pilot, shall not be concerned, directly or indirectly, in any pilot boat or with any pilot in respect to the business of his trust.

Id. §17.
None but pilots to be concerned in the boats.

§ 2139. The said board of wardens shall furnish every pilot aforesaid with printed instructions, to be shown by such pilot to the master or commander of every vessel as soon as he shall go on board to take charge of such vessel to pilot her into the said port, under the penalty of ten dollars for each and every neglect or refusal.

Id. §18.
Comp. 1655.
Printed instructions to be given to pilots and deputies.

§ 2140. In case the owner or consignee of any ship or vessel shall not be satisfied with the amount of pilotage charged against such ship or vessel by the branch, for the pilotage of such ship or vessel to or from the port of New York, it shall be the duty of such pilot to have the amount of pilotage claimed by him as aforesaid taxed or certified by the board of wardens, who are hereby required to examine and certify the same, without fee or reward; and no suit or action shall be brought or maintained for such pilotage until the same shall be taxed or certified as aforesaid.

Id. §29.
Amount of pilotage to be taxed by the wardens in case of dispute.

Id. §30.
Penalty for
intoxication.

§ 2141. In order to prevent intoxication in persons having the charge of ships and vessels, as pilots, if any branch pilot shall become intoxicated in charge of any ship or vessel, as pilot, he shall, for the first offense, forfeit his pilotage, be suspended from duty for six months, and in addition thereto forfeit and pay fifty dollars to the trustees of the Pilots' Charitable Society; and for the second offense be deprived of his license, and be forever thereafter incapable of acting as a pilot: Provided always, that the penalties aforesaid, or any other forfeitures or penalties incurred by virtue of this title, or by the rules and regulations of the wardens, made in conformity with this title, shall not be inflicted until such pilot shall first have been summoned.

Id. §32.
Fines, etc. how
to be applied.

§ 2142. All forfeitures, fines and penalties which shall or may be recovered and received by the said board of wardens under and by virtue of this title, and not otherwise appropriated, shall be applied, in the first instance, for, in or towards the payment of such costs of suit and disbursements of the said board of wardens in their prosecutions and proceedings, under this title, against offenders, as shall not be received by them from the party or parties so prosecuted or proceeded against; and the overplus and residue thereof, if any overplus there should be, shall be accounted for and paid over, on the first Monday of June, in each and every year, to the Pilots' Charitable Fund, in the city of New York, for the use and benefit of that association.

CHAPTER XXIX.

EFFECT OF THIS ACT.

Effect and
application of
this act.

§ 2143. This act shall not affect any offense committed or right of removal accrued prior to the time when it takes effect, and all penalties and forfeitures incurred under any statute superseded or repealed by this act prior to the time when it takes effect may be prosecuted and punished in the same manner and with the same effect as if this act had not been passed. Nor shall this act affect any right accrued or acquired prior to the time when it takes effect, nor create a vacancy in any office or employment.

Sections one hundred and eighteen, ten hundred and seventy-four, ten hundred and seventy-six to ten hundred and eighty-five inclusive, ten hundred and eighty-seven, eleven hundred and ten, eleven hundred and eleven, eleven hundred and fourteen, eleven hundred and fifteen, eleven hundred and seventeen, eleven hundred and twenty-three, eleven hundred and twenty-five to eleven hundred and sixty-nine, eleven hundred and eighty-three to twelve hundred and three inclusive, twelve hundred and five, twelve hundred and eight to twelve hundred and forty-eight inclusive, twelve hundred and fifty to twelve hundred and seventy-four inclusive, twelve hundred and seventy-six, twelve hundred and seventy-seven, twelve hundred and eighty-four, twelve hun-

dred and eighty-five, except subdivisions nine, eleven and twelve, twelve hundred and eighty-six, except subdivisions four and five, twelve hundred and eighty-seven, twelve hundred and eighty-eight, twelve hundred and ninety-six, thirteen hundred and one, thirteen hundred and seven, thirteen hundred and eight, thirteen hundred and eleven to thirteen hundred and fourteen inclusive, thirteen hundred and sixteen to thirteen hundred and forty-six inclusive, thirteen hundred and forty-nine to thirteen hundred and fifty-seven inclusive, thirteen hundred and fifty-eight to thirteen hundred and sixty inclusive, thirteen hundred and seventy-one, thirteen hundred and eighty-three, thirteen hundred and ninety-two to thirteen hundred and ninety-seven inclusive, fourteen hundred and five, fourteen hundred and twenty-one, fourteen hundred and twenty-four, fourteen hundred and thirty-eight, fourteen hundred and sixty-two, fourteen hundred and ninety-four, fourteen hundred and ninety-five to fifteen hundred and two inclusive, fifteen hundred and seven, fifteen hundred and twelve, fifteen hundred and fourteen to fifteen hundred and seventeen inclusive, the last clause of section fifteen hundred and eighteen, sections fifteen hundred and twenty-six to fifteen hundred and twenty-nine inclusive, fifteen hundred and sixty-nine to fifteen hundred and seventy-two inclusive, fifteen hundred and seventy-six to fifteen hundred and eighty-two inclusive, fifteen hundred and ninety-three, sixteen hundred and fifty-two to sixteen hundred and ninety-eight inclusive, seventeen hundred and fifteen, seventeen hundred and sixty-five and seventeen hundred and seventy-nine of this act being intended only to contain the substance of certain sections of the code of civil procedure or of the code of criminal procedure, or of amendments thereof, shall not be construed as making any new enactment, or as repealing, modifying, amending or superseding any provision of either of said codes, or any amendments thereof, but shall be treated and considered as embraced in this act solely in order that it may contain all provisions of existing laws which are of special application in the city of New York. Sections thirteen hundred and seventy-one to thirteen hundred and seventy-six inclusive, fifteen hundred and thirty-nine, sixteen hundred and thirty-seven to sixteen hundred and fifty inclusive, shall in like manner be treated and considered as making no new enactment, but as embraced in this act for the same reason.

For the purpose of determining the effect of this act upon other acts, except the penal code, and the effect of other acts, except the penal code, upon this act, this act is deemed to have been enacted on the first day of January, in the year eighteen hundred

When act to
take effect.

and eighty-two; all acts passed after such date and the penal code are to have the same effect as if they were passed after this act. This act shall take effect on the first day of March, eighteen hundred and eighty-three. This act may be cited as the New York City Consolidation Act of Eighteen Hundred and Eighty-two.

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1207 Cor. High St. Bldg.

Wm. S.

Waltham - Liberty

434 General

1207. Co. Hq. 1st Bn.

Walter

Walter

230 General

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