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REPORT

OF THE

Charter Revision Commission

TO THE

Governor of the State of New York.

WITH PROPOSED AMENDMENTS TO
THE GREATER NEW YORK CHARTER

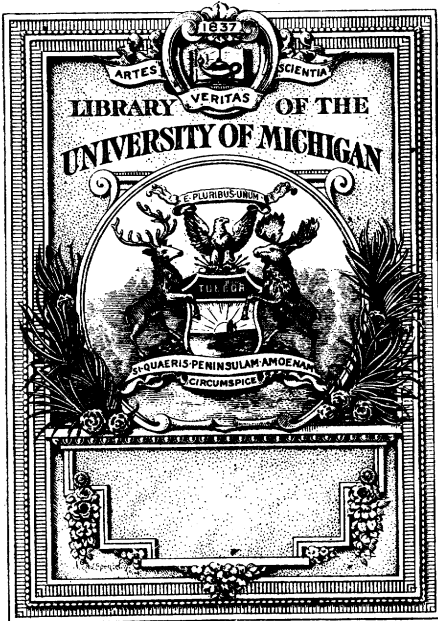
December 1, 1900.

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① 27 March 6, 5,
Review, MP 2-12-32

To the Governor of the State of New York:

SIR—The Commission appointed under chapter 465 of the Laws of 1900, “to examine into the local government of The City of New York and the counties contained therein, and the effect and working of the Charter of Greater New York and the various acts amendatory thereof and the several acts relating thereto, and to suggest such legislation as it may deem advisable relating thereto,” respectfully reports as follows:

In preparing its recommendations for legislation it became necessary for the Commission to determine in the first place whether it would undertake the preparation of a charter different in form from the existing Charter or whether it would embody its recommendations in the form of amendments to that Charter. But the limited amount of time at the command of the Commission has rendered it impossible to do more than to deal with questions of substance; and it has seemed to the Commission that by presenting its views in the form of amendments to the Charter as now existing, the Legislature and the public generally would perceive more clearly what changes are proposed.

The Commission has, therefore, prepared and herewith submits a bill to be transmitted to the Legislature, providing for certain amendments to the Greater New York Charter. In accordance with the rules of the Legislature, new matter in this bill is underscored and matter proposed to be omitted is inclosed in brackets—except that in the case of sections which are to be repealed, it has been thought sufficient to refer to them simply by their number and title in the schedules that will be found at the end of the bill.

LEGISLATIVE POWERS.

In considering the question of the legislative powers to be conferred upon The City of New York, we have been met in the first instance by the question whether any city legislature should exist at all. It has been contended that the affairs of the City are entirely or almost entirely of a business nature, and that no city legislature is really necessary except for the adoption of what may properly be called administrative rules and regulations. In this view the Commission is unable to concur. There will be many questions relating to the development and internal administration of the City which must be the constant subject of legislation as the City grows and as new and unforeseen conditions arise. Unless a city legislative body exists, there must be constant legislation by the State as to the affairs of the City, and the embarrassment arising therefrom in municipal administration is generally acknowledged. To what extent the State should in the interest of the people of the whole State enact and administer laws with reference to the affairs and government of cities is a question which we have not deemed it our duty to consider. But so strongly have many well-informed persons felt with reference to the practice of constant State legislation concerning matters of purely local administration that the adoption of a constitutional amendment has been urged, prohibiting the State Legislature from passing any special laws not made applicable to all the cities of the State. The Commission is not prepared to recommend so radical a constitutional change as this; but it may be pointed out that many of the objects of such an amendment might be effected at once if both houses of the Legislature, by some changes in their rules, were to refuse to consider any bills which related to subjects of local interest and with which cities were themselves competent to deal.

The Commission in passing upon the question of the legislative powers of the City has substantially adopted the views, which are well expressed in the report of the Commission

that framed the present Greater New York Charter, from which we quote as follows :

“ The charter has been constructed upon the principle that it is expedient to give to the city all the power necessary to conduct its own affairs. The commission has accordingly conferred upon the municipal assembly legislative authority over all the usual subjects of municipal jurisdiction. * * * The city, as the commission has constituted it, has within itself all the elements and powers of normal growth and development, making it unnecessary to have habitual recourse as hitherto to the legislature of the state for additional powers—a serious evil, and in the past the source of much abuse. These powers—great, varied and even complex as they necessarily are—will, when scrutinized, be seen to be no greater than the city requires and to be always legislative in their character. They are such as the municipalities of England and of Europe, as well of this country, constantly exercise.

“ This does not mean that under the proposed charter the city can change the structure of its own government. Whatever powers it will have it will receive as a grant from the state to enjoy in the form that they are given, and the state alone can modify the grant. Neither does it mean that the city can do what it will in every possible direction. It is tied up in many ways by old laws that are continued because they have been justified by experience. But it does mean that the city is believed to be equipped with power to decide for itself what it will do within the well recognized range of ordinary municipal activity.”

But, although it was the purpose of the former Commission to confer upon the City this large measure of self-government, it has been found in practice that difficulties which perhaps could not reasonably have been anticipated have rendered the provisions of the Charter ineffectual to carry out such purposes. The “ checks and safeguards ” which it was thought necessary to place upon the action of the various municipal bodies are so numerous, and the powers of legislation are so minutely subdivided and so widely distributed, that it has proved

extremely difficult and often impossible, to secure prompt results upon other than routine matters. Our effort has, therefore, been to facilitate local legislation, to simplify the governmental machinery and to remove some of the impediments to effective action.

An illustration of the course we have pursued in this regard will be found in considering the provisions of section 47 of the present Charter, which we have renumbered as section 43. Under that section the local legislature now has

“power to make, establish, alter, modify, amend and repeal all ordinances, rules, police, health, park, fire and building regulations, not contrary to the laws of the state, or the United States, as they may deem necessary to carry into effect the powers conferred upon the city of New York by this act, or by any other law of the state, or by grant, and such as it may deem necessary and proper for the good government, order and protection of persons and property, and for the preservation of the public health, peace and prosperity of said city and its inhabitants.”

These powers we have continued. The present Charter, however, also confers large legislative power upon the Health, Police, Park, Fire, Dock and Building Departments to the exclusion of the local legislature, and it further provides that almost every modification of existing ordinances affecting any of these departments must originate with the department concerned and must be adopted or rejected by the Municipal Assembly without amendment. The Commission recommends that all such limitations upon the powers of the local legislature be repealed, and that all powers of legislation and all powers of fixing salaries be taken away from the administrative departments. It also recommends that a great variety of local subjects enumerated in the second schedule, annexed to the bill amending the Charter, be included within the legislative powers.

It is, of course, possible that under this system there may often be an unwise exercise of power; but the Commission

believes that a safeguard against reckless or improvident legislation will be found in the provision that every head of department shall have a seat in the Board of Aldermen ; also in the large and increased powers of legislation vested in the Board of Estimate and Apportionment and in the stringent provisions relative to the Mayor's power of veto. Even at the risk of occasional serious mistakes it seems to us that it will be preferable to confer this measure of legislative independence upon the City authorities rather than to retain checks which only result in furnishing opportunities for unreasonable obstruction and necessitate continual resort to the State Legislature. The Commission believes that such a change will be welcomed by the State Legislature and that, if the voters of the City can be compelled to rely solely upon themselves, a better public spirit will be aroused ; that better men will be elected to the local legislature as the opportunities of its members for useful public service are increased ; and that thus will be created a free, self-governing community, subject to State control only upon matters of general State policy which are enforced uniformly throughout the State. It is in such a community alone that efficient, economical, progressive municipal government can be looked for.

COMPOSITION OF THE LOCAL LEGISLATURE.

The expression of opinion on the part of all who have addressed the Commission, is that there is no necessity that the City Legislature should be composed of two branches, a Council and a Board of Aldermen, that such a legislature has furnished opportunities which have too often been availed of for mere obstruction, and that every consideration of efficiency and honesty in the government of the City demands that the City Legislature should consist of a single house. As to the composition of that house, great divergence of opinion exists among those who have addressed us.

The Commission, on full consideration of the subject, recommends that the Council should be abolished and the Board of Aldermen retained, with an increased membership. A numerous body is thought desirable, because the mere fact its being small will not improve the character of its membership; because the larger the body the more difficult it will be to improperly influence it; because in a large body there will always be some who will be vigilant to oppose bad measures; and because by making the districts smaller the body will be representative of a greater variety of interests and localities. There is some advantage in retaining the name of the Board of Aldermen, because the people in the several districts of the city are usually acquainted with the Alderman and frequently call upon him for advice or assistance in various ways, thus giving a neighborhood side to his office not prescribed by statute, which is more likely to do good than harm.

A further reason for constituting a somewhat numerous legislative body will be found in the provisions referred to below, for the formation of Local Improvement Boards consisting of the members of the Board of Aldermen from the Local Improvement districts.

We recommend that the Board of Aldermen shall consist of its President, elected by the City at large, of the Presidents of the several Boroughs, and of members elected from each of the Aldermanic Districts provided for in the act. The Aldermanic districts are to be formed after the next legislative apportionment by dividing each assembly district within the city into two parts of equal size, provision being made for readjusting these districts after each decennial reapportionment. It has seemed, however, to the Commission that it would not be just, nor would it afford a fair trial to the proposed plan of a single legislative body; to put this system of representation into immediate operation, in view of the very great inequality now existing in the population of the several assembly districts. The last apportion-

ment of assembly districts was based on the enumeration made in 1892, and the extraordinarily rapid shifting of population since that period has resulted in leaving some of the assembly districts with a voting population approximately five times as great as that of others. The most accurate way available to the Commission for ascertaining the present voting population of the various assembly districts was to take the vote cast at the recent election. The number of aldermen allotted to each aldermanic district has been ascertained by taking the total votes cast at that election, and for every five thousand votes or major fraction thereof cast in any assembly district the Commission has allotted one alderman. In each district the vote taken as a basis was the highest total vote, whether for candidates for Presidential Electors or for Governor. The result has been that the smallest assembly districts have one alderman each, the greater number two each, and a few three or four each. A difficulty arose from the fact that portions of two assembly districts of Westchester County now lie within the borough of The Bronx, and that a fraction of an assembly district in the former County of Queens now lies within the Borough of Queens. We have dealt with these districts by adding the fractions from Westchester County to the Thirty-fifth Assembly District of New York County, giving this territory six aldermen, and by adding the fractional district in the Borough of Queens to the Second Assembly District of Queens County, thus giving this territory three aldermen. The result of the arrangement proposed is that there will be one hundred and twenty-three aldermanic districts. To avoid possible misapprehension, we repeat that this allotment of aldermen among the several assembly districts is merely temporary and is intended to continue only until the next legislative apportionment after the census in 1905, when there will be two aldermanic districts in each assembly district.

The President of the Board of Aldermen and the Presidents of the Boroughs, under the proposed charter, will have seats

and votes both in the Board of Aldermen and in the Board of Estimate and Apportionment.

We believe that it is of great importance to secure a constant publicity in the conduct of all City affairs. The Board of Aldermen should have ample powers to institute inquiry at all times. For this purpose, and also in order to secure intelligent and uniform legislation, we have continued the provision of the present charter that the heads of the several departments should have seats, without votes, in the Board. But we have extended this by requiring each head of department to attend, whenever summoned by the Board of Aldermen, and by requiring him to answer any questions that may be put to him by any member touching the affairs of his department, of which forty-eight hours' written notice shall be given.

At present the time of the Municipal Assembly is largely taken up with the most trivial matters, such as granting special permits for stands of one kind or another upon the public streets. By section 50 of the bill herewith submitted we provide that the Board of Aldermen may not pass any special ordinances in relation to these matters, and that all ordinances in relation thereto shall be general ordinances, which may apply either throughout the whole city or throughout specified sections thereof; which shall fix a definite license fee for every authorized structure, encroachment or obstruction to the street, according to the character, extent and duration thereof; and which shall provide for the issuing of revocable licenses therefor. The adoption of these and other like provisions will, we believe, give more serious purpose to meetings of the Board, and will lead men of character and ability to become candidates for aldermen.

It has been strongly urged upon the Commission, that some system of proportional or minority representation should be adopted in the composition of the Board of Aldermen. This Commission has not thought it necessary to consider this subject, because it agrees with the views of the former

Commission, that under the Constitution of the State, it is impossible to provide for such representation in the Charter "without making a vital part of the Charter depend upon a provision of uncertain constitutionality." And a majority of the Commission concur with the former Commission in recommending a constitutional amendment authorizing laws to be passed providing in municipal elections for minority or proportionate representation. Some of the advantages which are looked for under such a scheme of minority representation we hope will be found in the system we recommend of small aldermanic districts. Under the present Election Law (chapter 909, Laws of 1896, as amended by chapter 363, Laws of 1899) it is in substance provided that five hundred electors may nominate a member of Assembly or School Commissioner, while "independent nominations of candidates for public offices to be voted for only by the electors of a town or ward of a city, or a village, can only be made by one hundred electors." This does not in terms cover the case of aldermanic districts such as we propose; and we recommend an amendment to the Election Law providing that some reasonably small number of electors be empowered in such districts to make independent nominations.

THE MAYOR.

The Commission does not recommend any abridgment of the very great powers now vested in the Mayor, except in so far as such powers are necessarily abridged by the enlargement of the powers conferred upon the Borough Presidents by the other provisions of the Charter. On the contrary, the Commission recommends that the powers of the Mayor should in some material respects be enlarged. Experience has shown, both in the former cities of New York and Brooklyn, that very great powers can wisely be entrusted to a Mayor elected by the

people at large, and that a concentration of responsibility in his hands conduces effectively to good government.

With respect to the Mayor's term of office, there is force in the arguments which have been presented to us for a reduction to two years. The Commission, however, recommends that the present provisions of the Charter in this regard be left unchanged, and that a Mayor be elected for a term of four years and be ineligible for re-election for the succeeding term.

The most important change which we have made in the powers of the Mayor, and one which must have far-reaching consequences, is to extend throughout his entire term the absolute power which he may now exercise only for the first six months of his term, to remove certain executive officers; and to provide that all his appointees (except members of the Board of Education, Judges, etc.) shall hold office without definite term.

Under the present Charter important executive functions of government, except in the matter of the finances, are in the hands of Commissioners who are not directly accountable to the people or even to their elected representatives. Immense powers are thus vested in persons who are nominated by the Mayor, but who, six months after the Mayor takes office, pass out of his control and out of the control of any one representing the people, except in the event of their committing some offense which is susceptible of formal legal proof, and which, under the technical rules established by the Courts, will require a removal. The futility of that course has been proved on various occasions. The Mayor cannot reasonably be held responsible for officials unless he has an absolute power of removal.

The tenure of office of the higher appointive officials in our city government is unlike that which prevails in the federal government where all the principal officials hold their office at the pleasure of the President, and are removable by him at

will. Such was the system adopted in the early days of the Republic. At the present time, when The City of New York as now constituted embraces more inhabitants and vastly greater wealth than were contained in the whole United States at the time of the adoption of the Constitution, the Commission believes that a similar system should here prevail.

The Commission does not attach serious importance to the argument that the appointment of officials without definite term and subject to the Mayor's power of removal will make it more difficult for him to secure the services of competent and able officials. As we have just said, similar conditions prevail in the federal service, and it is highly improbable that any Mayor will ever remove an official of his own appointment without some justifiable cause. It may, indeed, be hoped that the possession of a constant power to remove will rather tend to keep in office many heads of departments during the administrations of successive Mayors, especially those whose duties are of a technical or professional character.

BOROUGH GOVERNMENT.

The Charter as at present existing and as originally framed contemplates the division of the city for administrative purposes into five boroughs. In each of these divisions a Borough President exists whose powers at the present time are practically limited to the possession of a seat in the Board of Public Improvements, with no vote "except upon matters relating exclusively to the borough of which he is President." He is also a member of each of the Local Improvement Boards within his Borough, but, as we shall presently point out, these Local Boards, under the restrictions of the Charter, are possessed of few effective powers.

It is clear that the vast territory comprised within the present City of New York, embracing as it does, districts so essentially different as the crowded east side of Manhattan

and the rural districts of Queens and Richmond, demands some subdivision and some degree of local autonomy. How far and in what respects the powers of administration in the various departments of the city government should be centralized, and how far they should be vested in the local authorities of each Borough, are questions which have demanded and have received our most careful attention. It appears to be entirely free from doubt that the great departments of public safety should be centralized and in strong control. There can also be no question but that the Departments of Finance, of Law, of Public Charities, of Correction, of Docks and of Taxes should be centralized and uniform in their operation. But when we come to the departments which deal with the public works of the city a very different question is presented. The present Charter centralizes all of these departments and unites them in a Board of Public Improvements. In this respect the Commission is satisfied that the scheme of the present Charter has proved most unsatisfactory in its workings, more especially with regard to the Boroughs other than Manhattan. It therefore recommends a very great enlargement of the powers, duties and responsibilities of the Borough Presidents.

LOCAL IMPROVEMENTS, PUBLIC WORKS, ETC.

The testimony given both before the Commission as a whole and before its sub-committees, and in the communications received by the Commission, shows that the system adopted by the Greater New York Charter for local improvements—both those paid for by local assessment and those paid for by the City as a whole—is extremely unsatisfactory. This is particularly true of local improvements paid for by assessments on the property benefited. The conditions existing at the present time bear a strong resemblance to those which existed immediately prior to 1890, in the district then known as the Twenty-third and Twenty-fourth Wards of the old City

of New York. Legislation was enacted in 1890 making provision for a local officer in that district who was known as the Commissioner of Street Improvements for the Twenty-third and Twenty-fourth Wards and discharged all administrative duties relative to such matters as sewers and streets, both in regard to their original construction and their subsequent maintenance. All the testimony taken by the Commission proves that this law worked satisfactorily to the people of the district immediately concerned as well as to the City as a whole. The Commission has therefore decided to recommend that the departments of Sewers and Highways, which, under the present charter, have jurisdiction throughout the entire City, be abolished, and that their functions be transferred to the Presidents of the several Boroughs. Under this plan the Borough Presidents will occupy a position closely analogous to that of the former Commissioner of Street Improvements of the Twenty-third and Twenty-fourth Wards.

The existing law relative to the making of local improvements is unsatisfactory in other respects. The functions of the various Local Boards under the present Charter are confined merely to recommending that proceedings be initiated, and the hearings before these bodies have, therefore, not assumed the importance which it is believed it was the intention of the framers of the Charter that they should have. The actual determination that local improvements shall be made is dependent on the approval of so many authorities that such determination is removed further than advisable from the people immediately interested. The Commission therefore recommends that the resolution of a Local Improvement Board, if approved by the President of the Borough and by the Board of Estimate and Apportionment, shall be all that is necessary in order that proceedings for a local improvement shall be begun. The power of veto given the President of the Borough is

believed to be necessary in order both to protect the rights of the individuals liable to assessment and to safeguard the interests of the Borough as a whole against any reckless action on the part of particular Local Improvement Boards. The power of approval given to the Board of Estimate and Apportionment has been thought necessary in order to protect the interest of the City as a whole. As the contracting party in these cases of local improvements is not the local improvement district, nor even any one of the Boroughs, but is the Corporation of The City of New York, and as the expense of the improvement is in first instance defrayed by The City of New York out of the proceeds of assessment bonds which are obligations of the City as a whole, it would be unwise and improper to vest in any district, or even in any Borough, the absolute right of determination. If such a power were given without the checks recommended, to each of the twenty-five improvement districts or even to each of the five Boroughs, the financial situation of the City might easily be imperiled and the constitutional limitation upon its indebtedness exceeded. Finally it is recommended that where the expense of any improvement is to be borne partially by the City as a whole, the consent of the Board of Aldermen shall also be obtained, if the City's share shall equal the sum of \$500,000.

Another defect in the present Charter of which particular complaint has been made in the districts where building operations are most extensive, is the excessive centralization of the present Department of Buildings. The distance of certain sections of the City from the headquarters of the Building Department in Manhattan is so great that much time is lost by the length of the necessary daily journeys of the officers of the department, and the citizens of many sections having business with the department are also compelled under present arrangements to lose much time from the same cause. The system of Deputy Commissioners established by the Charter does not provide a sufficiently decentral-

ized system to satisfy the needs either of the department or the people. We have therefore recommended the establishment of a bureau of buildings in the office of each President of a Borough, to exercise the powers now possessed by the various Commissioners of Buildings.

The same reasons which have led us to recommend the transfer of the powers of the departments of Highways, Sewers and Buildings to the President of the Borough, have led us to recommend the transfer to the same officer of the powers of the Commissioner of Public Buildings, Lighting and Supplies, so far as they relate to public buildings. The abolition of this department has also made necessary a redistribution of its other powers. The powers relative to supplies, which even now are exercised within some of the departments, such as Police and Education, have been given to the heads of departments generally and to the Presidents of the Boroughs, so far as their respective departments are concerned. The powers of the department relative to gas and electricity have been conferred upon the Commissioner of Water Supply.

The foregoing changes in the present system have made it necessary to recommend the abolition of the Board of Public Improvements, because its continued existence would be inconsistent with the plan for autonomy in the boroughs in matters of public improvements which the Commission has recommended. The powers now vested in the Board of Public Improvements which have not been transferred to the various departments and to the Presidents of the Boroughs, have been given to the Board of Estimate and Apportionment.

BOARD OF ESTIMATE AND APPORTIONMENT.

The Commission has recommended a considerable extension of the powers now conferred upon the Board of Estimate and Apportionment. With respect to what may be called the routine expenditures of the City, whether they are provided

for by taxation or by use of the City's credit, the Board of Estimate and Apportionment is given large powers. By reason of the possession of these new powers and of the increase of its freedom in exercising the powers which it has from the beginning of its history possessed, the Board of Estimate and Apportionment under our draft charter will be the most important body in the City government. Whatever dissatisfaction may have been felt with any other municipal body, the Board of Estimate and Apportionment has generally given satisfaction for its capacity, efficiency and integrity. Under the plan of the Commission it will be in reality the centre of all legislative activity in relation to financial affairs, and of much of the administrative activity of the City. It will be in effect an upper house of the City Legislature and also a cabinet of the most important administrative officers.

In dealing with the composition of the Board of Estimate and Apportionment, the Commission has not been unmindful of the danger of changing an agency of government which has long and successfully stood the test of experience. The present Board consists of the Mayor, the Comptroller, the President of the Council, the President of the Department of Taxes and Assessments and the Corporation Counsel—the two last-named officials being appointees of the Mayor. In giving to the Mayor the absolute power of removal it is evident that his appointees would be to a greater extent than at present under his influence, so that the Mayor in the Board of Estimate and Apportionment might, in effect, have three votes out of the five. It was not considered advisable to make the Corporation Counsel and the President of the Department of Taxes and Assessments elective officers; neither was it considered desirable to elect additional members of the Board at large. A Board consisting of three members would be manifestly too small. On the other hand the facts that the Board of Estimate and Apportionment was given the power to disapprove the decisions of Local Improvement Boards, and to determine the

amount of money to be expended out of the treasury of the city in public work in each borough made it proper that the boroughs should have a direct representation on the Board.

The Commission has therefore recommended that the Board of Estimate and Apportionment shall be composed purely of elective officers, viz.: The Mayor, the Comptroller and the President of the Board of Aldermen, elected by the City at large, and of the Presidents of the five boroughs, elected by the citizens of their localities. But in adding the Borough Presidents to the Board of Estimate and Apportionment another question required consideration. If the Borough Presidents were to possess a voting power, not only equal to that of each other but also to that of the other members of the Board, they might together control its decisions; and this would mean that the financial control of the City would pass from the officials who are not directly interested in the spending of the City's money to officers at the head of great administrative agencies and charged with the duty of spending large sums in the development and improvement of the particular localities they were elected to represent. It therefore seemed essential that the total voting power of the five Borough Presidents should be less than that of the officers elected from the City at large; and it was not thought just to give to the representatives of the smaller boroughs an equal vote with the Presidents of the two great Boroughs of Manhattan and Brooklyn.

What should be the representation of the different elements in the Board of Estimate and Apportionment has been one of the most difficult questions which the Commission has had to answer. We propose to give three votes to each of the officers elected at large; two votes each to the Presidents of the Boroughs of Manhattan and Brooklyn; and one vote each to the Presidents of The Bronx, Queens and Richmond. It will be perceived that the total number of votes in the Board will be sixteen, and that nine of these votes will be cast by the officers elected at large, assuring to them a control of the Board.

BOROUGH PRESIDENTS AND LOCAL BOARDS.

If the changes proposed are adopted, the President of a Borough will have a very different position from that which he now has. He will have charge, first, of the Highway and Sewer administration; second, of matters now administered in the Department of Buildings; third, of all existing public buildings and of the erection of new public buildings; fourth, of the making of the topographical map of his Borough, which is the necessary prerequisite of all local improvements; and, fifth, in the Boroughs of Queens and Richmond, of the cleaning of the streets. He will also, as a member of the Board of Estimate and Apportionment, have a voice upon all of the many matters coming before that Board affecting the interests of the City as a whole.

The Local Improvement Boards are also made more important than formerly. The districts over which they have jurisdiction are made permanent so that district neighborhood feeling may be maintained and promoted. The present method of division by Senatorial Districts is adhered to with very few exceptions, and the Districts are given permanent names—names which have in most cases historical significance—instead of being merely numbered. It is also provided that the boundaries of these Districts shall not be changed with the periodical apportionments of Senatorial Districts.

BOND ISSUES AND FRANCHISES.

The action of the Municipal Assembly in respect to bond issues has been justly subjected to much criticism. No matter for what purpose the City is compelled to borrow money, the issue of bonds must at present be approved by a vote of three-fourths of all the members elected to each branch of the Municipal Assembly. The power to obstruct such issues thus resides in a very small minority of each House; and even where the money must be raised in order to pay the lawful

creditors of the City, the power of obstruction has been not always used for proper purposes.

The Commission proposes that the power to issue bonds in all cases where there is no real discretion as to such issue—such as for refunding purposes and paying awards in condemnation suits—and in a few cases where experience has shown that money must be borrowed yearly to meet the necessities of the growing city—such as for new school-houses and extensions of the docks—should be vested in the Board of Estimate and Apportionment alone. In other cases the proposed amendments provide what is in effect a veto power of the Board of Aldermen, to be expressed by the vote of a majority of all the members. It is further provided that any action in this regard must be taken by the Board of Aldermen within six weeks after the receipt of a copy of the resolution of the Board of Estimate and Apportionment authorizing the proposed bond issue.

The reason for authorizing the Board of Estimate and Apportionment to issue bonds is in part to make it easier than at present to carry on the current administration of the City's affairs, even if the expense is to be defrayed by the borrowing of money instead of by annual taxation. Experience has amply shown that the necessary yearly extension of the water distributing system, due to the steady growth of the City, requires the expenditure of a certain amount of money each year. The policy of the City in the past has properly been to defray this expenditure out of the proceeds of the sale of bonds. This is a wise and businesslike course, because the undertaking is merely an extension of a business which results in almost immediate profit to the City. If the City is to grow, such work must be done, and if the question were to be submitted year by year to the Board of Aldermen for its approval, the issue of bonds might be unnecessarily delayed without any compensating advantages.

The amendments proposed will thus by the action of the Board of Estimate and Apportionment on the one hand enable the City to raise money promptly for its ordinary necessities ; while on the other hand the Board of Aldermen is fully empowered to discuss and, if it chooses, to prohibit loans which are not of a routine character. The questions as to borrowing money for all new undertakings are thus made to fall within the range of the powers of the entire legislative body of the City.

Grants of franchises, which have also been unreasonably delayed by the present Municipal Assembly, must in like manner by our plan be acted upon within six weeks after the Board of Estimate and Apportionment frames the proposed legislation.

Special attention may be called to the changes effected in Section 73 of the Charter, where by the transposition of sentences important restrictions are imposed upon any grant of tunnel railroad franchises.

Attention is also called to a matter of relatively minor importance. At the present time provisions relating to the power to grant licenses to establish and operate omnibus or stage lines in any part of the city are obscure and doubtful. They are contained in five sections of the Charter, scattered in various parts. We recommend that these be consolidated into one section, that the procedure in reference to a grant of such license be assimilated to that in case of grants of street franchises, and that reasonable and proper compensation be paid to the City. For some reason the Transportation Law now prohibits the incorporation of companies within The City of New York for such purposes. We can perceive no good reason for this prohibition. On the contrary, the Commission is of opinion that it may be to the interest of many parts of the city, under modern conditions, to facilitate the establishment of omnibus lines, and we therefore recommend that the exception in the Transportation Law be repealed.

FINANCES AND TAXATION.

The Commission has been strongly urged by important interests to deal with the question of taxation in The City of New York. Unjust and unequal as taxation in a great city under the present law necessarily is, and harshly as the burden of taxes on personal property now often falls, the Commission has felt that the subject was one which could only be adequately dealt with by legislation affecting the entire state. It has therefore confined itself solely to proposing some amendments of minor importance in connection with the mode of assessing and collecting taxes in The City of New York; among others, one giving the right of inspection by the public of the list showing the taxation of personal property. The date when the annual taxes become a lien—heretofore a matter of uncertainty, and therefore of inconvenience to real estate interests—has been definitely fixed at the first Monday in October.

The organization and powers of the Finance Department of the City are left substantially unchanged except in one particular. Under the present Charter it is held that each head of a department is authorized to bind the City absolutely for specific amounts for supplies purchased, or other liabilities incurred. No matter how excessive these charges may be, the Department of Finance possesses no power to dispute or reduce them, unless it can establish fraud—always a very difficult task. This has been corrected, and the Department of Finance is given substantial powers of audit and adjustment, subject, however, to a proper preservation of the rights of the City's creditors.

The management of the finances of the Departments of Police and Education, except pension funds, has been placed in the Department of Finance.

The Comptroller, at the present time, receives a salary of \$10,000, and in addition receives a much larger amount as a percentage upon the collections made under the Transfer Tax.

As a measure of economy, the Commission recommends that his salary be fixed at \$15,000, and that the Transfer Tax percentage be paid into the City Treasury. The Mayor's salary remains at \$15,000.

DEPARTMENT OF BRIDGES.

No change of any moment has been thought to be necessary in the case of the Department of Bridges. It has, however, been deemed advisable that the exception which was made in the present Charter with regard to the East River Bridge, now under construction, should be done away with, and that this bridge be put in the hands of the Commissioner of Bridges. The Commission was brought to this conclusion principally because of the fact that the Commissioners of the East River Bridge have been treated both by the present City administration and by the Courts as a part of the regular City government, and that, as a result, the increased expense resulting from the existence of a separate commission was not offset by any advantages due to permanency.

The increased importance in the public mind of the question of tunnels has led us to recommend also that tunnels, other than Rapid Transit tunnels, be placed in the charge of the Commissioner of Bridges. No provision is made in the present Charter for these means of communication.

MUNICIPAL OWNERSHIP.

We have been urged by many of those who have addressed us to make provision for the ownership by the City of what are known as "public utilities." Water-works, gas-works, electric-lighting establishments, ice plants, printing establishments, and docks are some of the subjects to which our attention has been particularly directed. We are convinced, for reasons which we need not here elaborate, that the present policy in regard to

the municipal ownership of all the water supply of the City, and of the wharves and bulkheads on and ferries to Manhattan Island, should be continued. We are not, however, prepared to recommend any wider general extension of the principle.

WATER SUPPLY.

It has seemed to the Commission that the Department of Water Supply should continue to be centralized and under the control of a single Commissioner. Accordingly no material change is recommended in the organization of this Department, except that on account of the importance and differing conditions of the Brooklyn water supply it has been deemed necessary to require that a Deputy Commissioner be located in that borough, and except that, for reasons above stated, we recommend conferring upon the Department the powers in relation to gas and electric conduits now vested in the Commissioner of Public Buildings, Lighting and Supplies. The Department of Water Supply, dealing as it does with the laying of water-mains throughout the City, could easily deal with the laying of gas and electric conduits, and it might incidentally and easily test the character of the service supplied.

A very important question, however, arises in connection with the question of water supply, to which our special attention was called by a letter from you dated May 26, 1900.

We condemn the legislation called to our attention by you, which has given special privileges to the Ramapo Company, by means of which that company seeks to monopolize the most readily accessible sources for the supply of water to the City, and in the interest of the City and its citizens we recommend the repeal of that legislation.

We have retained in Section 471 of the Charter the existing provisions of law prohibiting the making of any contract for the supplying or selling of water, except with the approval of the Board of Estimate and Apportionment, together with the separate written consent and approval of both the Mayor and

the Comptroller of The City of New York. We have also retained the provisions in the same Section providing that the making or approval of any such contract may be reviewed by the Appellate Division of the Supreme Court.

We have been urged to recommend the entire prohibition of the making of contracts for the supply of water from any private source, so that there might be exclusive public ownership of the source of water supply in The City of New York. Although the Commission is satisfied that municipal ownership of water supply should be the general rule, yet there are exceptional cases in the Boroughs of The Bronx, Queens and Richmond, in which it is now essential, and may be for many years to come, that water should be obtained from sources not owned by the City; but we believe the present provisions of law, while enabling such exceptional contracts to be made, will sufficiently guard against any improvident arrangement upon a larger scale.

In Section 472 we have proposed amendments to the Charter which will enable the City to condemn water rights in all parts of the State. But we propose that in case of condemnation proceedings no sources of supply shall be taken which are in actual use at the time of the initiation of proceedings for condemnation "for the supply of the water-works of the people of any other city, town or village of the State, or for the supply and distribution of waters to the people thereof; or which in the opinion of the Court on such proceedings may reasonably become necessary for such supply; or to take or use the water from any of the canals of the State," etc.

While these powers seem to give to The City of New York ample means of extending its supply of water as such extension may become necessary in the future, and also to give reasonable security to the inhabitants of those parts of the State from which the water supply must be derived, yet the Commission calls attention to the fact that the possession of such powers by the City will not fully solve the entire problem.

The constitutional provisions against increasing the City's debt operate in practice so as to make it exceedingly difficult for the City to borrow money for the purpose of extending its sources of the water supply. Money may, indeed, under the Constitution, be borrowed without limit for this purpose ; but in case the total indebtedness, including that incurred for the water supply, exceeded the limit imposed by the Constitution, The City of New York could not borrow money for other purposes essential to its continued growth—such as the extension of its docks and the building of new schools—until the total city debt had again been brought within the Constitutional limit. The Commission therefore recommends an amendment to Section 10 of Article VIII. of the Constitution, which will so far modify the existing limitations on the incurring of indebtedness by cities as to except from its provisions indebtedness hereafter to be incurred by The City of New York for purposes of water supply. The justification for this exception is the profit incident to municipal ownership of the water supply, and that bonds issued and expenditures made for such purposes not only do not add to the burdens of taxation, but that they actually tend to reduce such burdens.

The necessity for removing restrictions upon the ability of the City to provide its inhabitants with a pure, wholesome and sufficient supply of water is urgent. The danger of having the water supply of The City of New York thrown into private hands arises mainly from financial considerations. The day is not far distant when the pinch of water shortage will be actually felt. If, when that day comes, the City is unable itself to supply the needs of its citizens, theoretical considerations, however sound, will not be permitted to stand in the way of securing additional water by the means most speedily available. In other words, the constitutional limitation, operating as it practically does to prevent the City from securing more water,

also undoubtedly operates with constantly increasing certainty to throw the City into the hands of private monopoly. It is not to be expected that the people or their officers shall exercise such extraordinary self-denial as to forego the necessities of the present hour in order to undertake improvements and additions to the water-supply system, the benefits of which will not be experienced for ten or fifteen years. And when it is borne in mind that the supplying of water to the citizens of New York has always been a profitable enterprise, the Commission believes that there is no reason for continuing in force a constitutional provision which, in the present state of the law, leaves the citizens of New York only two unhappy alternatives: recourse to a private company for the supply of water, or the interruption of the orderly and necessary development of the City.

It is particularly to be noted that we recommend that this constitutional restriction shall be removed only as to future indebtedness, so that no sudden enlargement of the City's debt incurring capacity, leading to possible extravagance, can result.

DEPARTMENT OF DOCKS.

Acting under the same view of the importance of extending and increasing the facilities of this Port, we recommend that the limit now fixed upon the annual issue of bonds by the Board of Estimate and Apportionment without the concurrence of the Board of Aldermen for dock purposes be raised from three million dollars to five million dollars a year.

The organization and powers of the Dock Board are left without material change, except that the power to contract for repairs to an unlimited amount without competitive bidding, and the granting of such contracts upon mere orders by the Dock Board—a power which is liable to grave abuse—is made

dependent upon the concurrence of the Board of Estimate and Apportionment.

We have enlarged the powers of the Dock Board in relation to ferry franchises.

LAW DEPARTMENT AND CONDEMNATION PROCEEDINGS.

No material change is proposed in regard to the Law Department, except an amendment to prevent what is believed to be an abuse by prohibiting the principal officers of that Department from engaging in the trial of cases in court for private clients and from acting as referees or receivers.

In regard to proceedings to condemn land, the existing provisions of law by which the Corporation Counsel is prohibited from beginning such proceedings until authorized by unanimous vote of the Board of Estimate and Apportionment has been modified so as to require a three-fourths vote, for the reason that the changed composition of the Board seems to make it undesirable to require a unanimous vote. A change has been made in the provisions relative to the appointment of Commissioners of Condemnation, so that the entire responsibility for the selection of fit men shall be placed upon the Judges of the Courts.

Amendments have been proposed to those provisions of the Charter relating to the condemnation of lands for public purposes designed to end the abuses which have existed in regard to the making of separate or partial reports by Commissioners of Estimate, whereby the City has been compelled to advance large sums for the awards, and to wait indefinitely for the right to reimburse itself by the collection of the assessments. This change should materially lighten the burdens of taxation.

POLICE DEPARTMENT.

The vital and important change proposed in the Police Department is the creation of a single-headed Police Commission. Much of the lax and negligent administration of the Police Department has been the result of divided responsibility due to the existence of a Board composed of four Commissioners, such Board being alleged to be bi-partisan in character. As a part of the new scheme, the Mayor is given the absolute power in his discretion to remove a Police Commissioner at any time, and it will, therefore, be difficult for the Mayor to resist public demands for efficient administration of the Police Department.

The Commission has not received from any source whatever an approval of the present system, which has, in one form or another, been tried in the former City of New York for many years past. On the contrary, the system of a single-headed police department, such as was formerly in force in the City of Brooklyn, has been advocated before us by representative bodies of taxpayers and by many private individuals.

We may add that the recent action of the Governor in holding the Mayor of The City of New York to personal responsibility for the action of the Police Department upon Election Day in The City of New York, and other events fresh in the public mind, serve to emphasize the importance of an undivided and single responsibility for the control of the Police Department.

The powers of the Police Commissioner under the plan of this Commission will be substantially the same as those which are now exercised by the four-headed Board. Two deputies are given him, who are always subject to his control, and may be assigned by him to such duties as he may see fit to impose. The salary of the Police Commissioner is fixed at \$10,000 per annum, and the salaries of his deputies at \$4,000 each. Our reason for recommending so large a salary for the Police Commissioner is the belief that it will tend to

secure a man of the highest character and integrity to administer the office.

The Commission believes that the best police administration may not always be obtained by the selection of the Chief of Police from among the members of the uniformed force, and it has therefore given power to make such selection outside of such force; but when so selected the provisions for a retiring pension are not to be applied to him. It is, however, provided that if selected from the force, the Chief must be chosen from among the deputy-chiefs or inspectors, and thus there will be due regard for seniority and long service. The same principle has been adopted for all promotions; and with the application of the new Civil Service provisions inserted in the Charter, deadlocks between the Civil Service Board and the Police Department relative to promotions should become impossible.

The executive powers of the Chief of Police have been preserved, but he still remains subordinate to the Commissioner, in that, at any time, he can be retired by the Commissioner, with the approval of the Mayor.

The financial affairs of the Police Department are hereafter to be lodged with the Comptroller, in line with the general scheme assigning to the Comptroller all matters relating to the fiscal administration of the City.

The detective sergeants in the Borough of Brooklyn have always been permanent officers, and the same tenure is now given to the detective sergeants in the Borough of Manhattan.

Permission has also been given to the Police Department to maintain a branch headquarters in each borough in aid of police efficiency.

BOARD OF ELECTIONS.

A separate Board of Elections of four members is provided for. There should, however, be no increased expense on this account, as the salaries of the Commissioners are but \$3,000 each, and there should be no need of expensive branch bureaus in the several boroughs. With reasonable attention on the part of the Commissioners, and with the branches in charge of efficient Chief Clerks, economy should ensue as the result of the plan. The Commissioners of Election will be appointed by the Mayor, and it is expressly provided that not more than two of them shall belong to the same political party, or have the same political opinion on State or National matters. We believe it desirable that the two great political parties should have the direct selection of the Commissioners of Elections, but it is not clear that this can be done under the Constitution of the State.

FIRE DEPARTMENT.

Under the present Charter the Fire Commissioner was originally given but a single deputy, who was seated in the Borough of Brooklyn. This provision imposed upon the Commissioner so vast an amount of work, mainly clerical in its character, that the Legislature subsequently amended the Charter by providing that the Commissioner might delegate one of his subordinates to transact certain business on his behalf. The Commission recommends that the organization of the Department be modified so as to assimilate it to the organization of the Police Department, as it will be if the views of the Commission are accepted. The Fire Commissioner is given two general deputies. The compulsory provision requiring one of these deputies to be assigned to the Borough of Brooklyn is abolished, but the power is retained to establish branch fire headquarters in all the boroughs if the Commissioner deems it advisable.

BOARD OF HEALTH.

Under the existing Charter, the Board of Health is composed of three officers called "Commissioners of Health," together with two ex-officio members, the President of the Board of Health and the Health Officer of the Port, and it is expressly provided that the President of the Board of Health shall not be a physician. The Commission is of the opinion that this organization is unnecessarily expensive and complicated and that the Mayor should not be prohibited, in proper cases, from appointing a physician to the important post of President of the Board of Health. The Commission therefore recommends that the Board be composed of one Commissioner, to be selected by the Mayor without restriction upon his choice, and of the Police Commissioner and the Health Officer of the Port. The powers and duties of the Health Department are not materially changed, except by the abolition of the present power of assignment of claims for expenses and penalties, which seems likely to lead to abuses.

This Commission has not attempted to deal in any respect with the power of the Board of Health so far as it relates to tenement and lodging houses. The same Legislature which authorized the appointment of this Commission also authorized the appointment of a Commission to examine into the tenement house question in cities of the first class. We have therefore thought it inappropriate as well as inexpedient to make any recommendations upon the subject, and we have regarded ourselves as wholly relieved from that duty by the appointment of the Special Commission. The voluminous and minute provisions of existing law contained in Sections 1304 to 1325 of the Charter are left untouched by us with the exception of a few verbal changes, although many of them might well be the subject of local ordinances.

PARK DEPARTMENT AND ART COMMISSION.

In respect to the Park Department, the Commission believes that the exception contained in the present Charter to the general and salutary rule of single-headed administrative departments should be continued. The territory within which lies the enormous park system of the City is so vast, and the conditions of the various parks are so different, that it is impossible for a single individual satisfactorily to supervise the entire system. Moreover, questions of policy deeply interesting to all citizens of New York must necessarily be determined; and these questions, we believe, should not be left to the determination of one person, but should rather be decided in open meetings by a board. The Commission therefore recommends a change in the provisions of the Charter so that the more important matters of park administration shall be dealt with by the Board and not by the Commissioners individually.

The powers and duties of the Art Commission have been extended so as to require its approval of the artistic or monumental features of every public structure costing over one million dollars.

PUBLIC CHARITIES.

The Commission has thought it wise to recommend the substitution of a single Commissioner of Public Charities for the present Board of Public Charities, consisting of three Commissioners. There seems to be no good reason for not concentrating in a single head the management of the charitable institutions throughout the territory of the City. The retention of the Board under the present Charter was a temporary expedient, it being thought best to continue for a time the separate management of the charitable institutions in the different counties. Now that all the charitable institutions of the City are made a common charge, there seems to be no reason for regarding any longer distinctions of administration which grew up under separate county organizations.

Amendments to the Charter are recommended which will give the Commissioner of Public Charities greater power in the matter of investigating the circumstances of children who are sought to be made wards of the City. It is a deplorable fact that many parents who are able to support their children have sought under various pretexts to have them foisted upon the City. It has been difficult under the present law to have adequate investigation made in these cases prior to the judicial action of the magistrates. For the purpose of facilitating a prompt and intelligent disposition of cases of dependent children we recommend that the City Magistrates in Manhattan and The Bronx be required by law to establish a special part of the Magistrates' Courts to be known as "The Children's Court" and that this be at some place near the headquarters of the Department of Public Charity. Such a Court will have the advantage of separating this class of children from contact with vicious misdemeanants in the Magistrates' Courts. It is, however, provided that this so-called "Children's Court" shall not affect the present method of commitment of children who are charged with crime, or held as witnesses, and that it shall not deprive the magistrates of their existing jurisdiction temporarily to commit such children charged with crime, pending trial, to the care and custody of the Societies for the Prevention of Cruelty to Children.

We also recommend some enlargement of the powers of the Commissioner in the matter of finding homes for dependent children. The finding of such homes not only saves the City from the support of these children, but is decidedly for the advantage of the children.

The most important change, however, recommended in the matter of public charities is that Bellevue and its allied hospitals, viz. : Fordham, Harlem, Gouverneur and the Emergency Hospital, be placed under the administration of a board of seven trustees, the board to be so appointed that the term of office of

one member of the board will expire each year. These trustees are to be appointed by the Mayor, but provision is made that certain Societies have a recognized opportunity to make nominations for these appointments. The power of the Mayor to make the appointments is, however, in no degree abridged by such recommendations or nominations.

Bellevue Hospital is an institution of historical importance. It has not only been for many years the chief charity hospital of Manhattan Island, but it has been intimately connected with medical education. City patients in the hospital have commanded the services of surgeons of great distinction and skill. Two, at least, of the most important medical schools in the City have selected sites in close proximity to the hospital, with a view to the advantages of clinical instruction. It seems wise that the administration of such an institution should not be subject to change as an incident of municipal elections. The experiment of conducting City Hospitals by boards of trustees rather than by the Executive Officers of the City Government, has been successfully tried in Boston, Cincinnati and other large cities.

It is the belief of those favoring this important change that the executive efficiency of the Department of Public Charities will in no degree be impaired by the creation of such a board of trustees. The Commissioner of Charities will be *ex officio* a member of the board and his existing powers of visitation over the institution will thereby be fully preserved.

DEPARTMENT OF CORRECTION.

In the Department of Correction we recommend the abolition of those provisions which require a branch office in the Borough of Brooklyn, and the abolition of the provisions of those existing laws which permit the creation of more than one deputy commissioner. At the present time the Kings County Penitentiary is the only penal institution of any importance in Brooklyn within the jurisdiction of this Department. There

seems to us no reason why the Warden of that Penitentiary cannot perform all the duties of his office under the direct supervision of the head of the Department.

We also recommend an amendment of the existing law which will permit, in proper cases, the use of the labor of inmates of the penal institutions in public works carried on by any department of the City. At the present time, under the provisions of the Constitution prohibiting the sale of the products of prison labor, such labor must be wholly devoted to the furnishing of supplies and rendering of service to the State itself or its political subdivisions. This limitation has thus far led to a deplorable lack of employment in the penal institutions. At the present time in some of the penitentiaries there is not work enough to keep the inmates employed more than three or four hours a day. The existing prison law of the State now requires that the various administrative departments of the State or its political subdivisions shall use the products of the prisons when practicable. The changes recommended by us in the Charter simply carry out this general principle.

We recommend numerous changes in the existing provisions of the Charter affecting cases of commitment of vagrants and disorderly persons under the so-called "cumulative sentence" provision of the law. These provisions in the present Charter were held by the Courts unconstitutional. In the changes recommended we have sought to obviate these constitutional objections. We have also provided a system of probation officers to exercise certain supervision over persons of this class in cases where the committing magistrates may deem it wise to suspend sentence. These probation officers are to serve without compensation. We have been assured that many philanthropic persons can be found willing to assume this burden. The system has been tried with success in Massachusetts, and certainly seems worth trying here. It is not unlike the method which now exists in this State at the Elmira Reformatory, under which inmates of that institution are re-

leased on parole, but remain to some extent under the supervision of the Reformatory for a certain period of time.

THE DEPARTMENT OF EDUCATION.

It was the purpose of the present Charter to centralize in a Board of Education, composed of delegates from borough school boards, all power over the physical conduct of the schools, and to leave to the Borough Boards the administration of educational matters. This plan, it was hoped, would secure the benefits of a uniform administration throughout the City in business affairs, while it would retain in the different Boroughs that which, in educational administration, was best adapted to local conditions.

It has been demonstrated, however, by the experience of the last three years, that although a clear division of executive duties among officials of the department is necessary, yet a distribution of the business functions to one board and the educational functions to another, within the same department, is not practicable. In a vast city like New York, educational questions are too much dependent upon business policy for separate administration. Any Board of Education responsible for educational results in this city, should have direct administrative control of the physical conditions of space, light, air and sanitation. It is now the duty, theoretically, of the Board of Education, to investigate the educational needs of the several Boroughs, so far as it is necessary to determine their physical necessities. But as that Board is not directly charged with the responsibility for the educational administration, its executive departments have never been equipped for such investigation and, if they were, there would be an unnecessary and expensive duplication of functions. Unfortunate conflicts of opinion between the Board of Education and some of the School Boards have resulted from the present system, and they seem to be inevitable so

long as there exists within the Department of Education independent administrative bodies, charged with ultimate responsibilities in relation to interdependent functions.

Another unfortunate result of different systems of administration in the several Boroughs is found in a lack of uniformity in educational results attained. There is no uniform course of study. Pupils in one Borough may not move to another Borough without the possible loss of a grade in their course. No power now exists to compel the several Borough School Boards to assimilate their courses of study. The concentration of authority in a central Board of Education, which the Commission recommends, will remove this unfortunate condition, and at the same time permit elasticity in relation to those studies of the curriculum which the Board may deem it wise to prescribe in some localities and not in others.

On the whole, the present system has been cumbersome and unsatisfactory in operation. It might perhaps be improved without changing the general plan. But the Commission is of the opinion that this could only be done by enlarging the powers of the Board of Education in matters of educational administration. If the Borough School Boards are retained, this could only result in duplication of work and duties, involving delays, confusion and unnecessary expense of administration. If the Borough Boards were to be retained, we think it must logically follow that the necessity for a central Board of Education would be removed, and that the Borough Boards should be given complete independence and autonomy—subject to no central control except that of the Board of Estimate and Apportionment and the Board of Aldermen in the matter of the apportionment of funds. This plan does not commend itself to the Commission. If it were adopted, the Board of Estimate and Apportionment would of necessity be obliged to look into educational questions to enable it to pass upon the reasonableness of the demands of the several Boroughs—matters which it could treat neither adequately nor

sympathetically. We would thus have five educational systems within the same City, with varying and independent standards and methods—a result which would be most unfortunate. No scheme, finally, for autonomy in Borough school administration could, in the judgment of the Commission, be successful without a separate tax rate for each Borough, and few believe that this would be wise.

The Commission has considered with care all suggestions which have been made, and have devised a scheme which it believes is adapted to the existing conditions and will remove the troublesome administrative difficulties experienced in the last three years. Briefly, the system proposed is this :

The Borough Boards are to be abolished ; the Board of Education, consisting of forty-six members, appointed by the Mayor, is to be in entire charge of the educational system, excepting so far as limited powers and duties are devolved upon Local School Boards in small districts. The members of the Board of Education are to be selected from the several Boroughs in about the same proportion in which delegates are now sent to the Board of Education from the several Borough Boards. The Board of Education is to divide the City into forty-six local school board districts, in each of which the Borough Presidents are to appoint five persons who, with a member of the Board of Education to be assigned by the President of that Board, and a district superintendent assigned by the City Superintendent, are to constitute a Local School Board. The Local School Boards are to have, in addition to the powers now conferred upon school inspectors, both advisory and initiatory powers in relation to certain matters peculiarly the subject for local administration.

In adopting such a plan of centralization of administrative powers the Commission was not unmindful of the importance of preserving an efficient agency to keep alive in local communities an active interest in school administration. This has been attempted by the creation of the Local School

Boards already mentioned. By a careful definition of the powers of these Boards it is believed that the dangers of the abuses which characterized the old trustee system of the old City of New York, and which have been charged against the local committee system of Brooklyn, have been avoided, while the merits of these two systems have been preserved. Among the powers of the Local Board is that of hearing and determining in the first instance complaints against teachers, subject to the right of appeal to the Board of Education in case the penalty is that of dismissal. The presence in these Local Boards of members of the Board of Education and district superintendents, will give them influence and dignity, and it is hoped that in the every-day details of school management they will come to be regarded by the communities in their respective districts as the representatives of the school administration to which convenient resort may be had, with the result that there will be kept alive that alert public interest in the local administration of school affairs which is indispensable to every successful public school system.

A smaller Board of Education might have been more efficient in discharging its administrative duties. But it seemed desirable that the Board should be large enough to furnish a representative in each local School Board District. The advantage of the coherence thus given seemed to the Commission to outweigh the disadvantage of a large board, particularly in view of the extensive executive powers vested in the City Superintendent, the Superintendent of Buildings and the Superintendent of School Supplies. It was deemed advisable, however, to require the Board of Education to appoint annually an executive committee of fifteen members, to which it may depute such administrative powers as it sees fit. Reports of all standing committees are to be presented for consideration to this Committee before being presented to the Board, unless otherwise ordered. It is expected that by this plan many of the important measures undertaken by the Board will be first

considered and a policy formulated by an executive committee of convenient size for the efficient disposition of business.

Important changes are recommended in the system of school supervision. The City Superintendent is to be the executive head of the educational administration. There are to be six Associate City Superintendents, who, with the City Superintendent, will constitute the Board of Superintendents, having large powers in relation to all educational matters. This Board is to nominate, transfer and promote teachers; to prepare courses of study; to make rules for the supervision of the schools; and, in general, to determine the educational policy of the City, subject in all matters to the approval of the Board of Education. The more immediate supervision of the schools is to be in the hands of fifteen district superintendents, not constituting a board, but each assigned by the City Superintendent to duty in three of the forty-six local school board districts, and one assigned to an additional district. They are to have seats in the local school boards of the districts to which they are assigned with the right to speak but not to vote. While the number of supervising officials has been reduced, their efficiency in the matter of school supervision will be increased by confining the duties of the district superintendents to local supervision. With the increasing efficiency of our system and under the stringent rules now in force in relation to the selection of principals, it is believed that the reduction in the number of supervising officials may safely be made, with resulting economy in the expense of supervision, which is now larger than it should be.

The Commission recommends that the salary schedule of the so-called Davis Law be repealed, and for the following reasons: After consolidation the school boards of Manhattan and The Bronx and of Brooklyn several times presented to the Board of Estimate and Apportionment salary schedules which were fairly satisfactory to the teaching staff and would have

involved only a moderate increase in the budget. The city authorities declined to appropriate funds to carry the schedules into effect. Largely at the instance of the teachers the so-called Ahearn Law was passed, which involved a much greater increase in the budget than the schedules just referred to, which had been presented to the Board of Estimate and Apportionment. It is a matter of common knowledge that the municipal authorities who had themselves refused to act, did not oppose the passage of the Ahearn Law. That law provided for minimum salaries based upon length of service for certain quite long-stated periods without any intermediate increase. There resulted inequalities and a discrimination against the low-salaried teachers which required supplementary schedules. These were prepared by the school boards and presented to the Board of Estimate and Apportionment, but again funds were withheld and the whole matter of salaries was thrown into confusion with the result that more than a half a dozen salary bills suggesting remedies were introduced in the Legislature of 1900. Finally the Davis Law was passed, providing the same minima and annual increments throughout the city without regard to the expenses of living in the localities where teachers were employed or the salaries which had been there regarded as adequate before consolidation. In cases called to our attention teachers living in some of the rural districts, who deemed themselves amply paid before, had their salaries more than doubled. Similar cases of extraordinary increases were numerous. By the increases caused by the Ahearn and Davis laws, the expenses of the department have been annually increased at least three million dollars in excess of the amount which would have been necessary to put in effect the schedules proposed by the local school authorities. Principally from the same cause the annual expense per capita of the population for the maintenance of the public school system has been nearly doubled in the last five years, and the annual average cost of educating each child has been startlingly increased.

Such results should never have been brought about without responsible action of the City authorities. The Commission, therefore, recommends that the Davis law be repealed immediately, but that the salaries now paid the teachers continue until July 1, 1901. There will thus be about three months during which the Board of Education will have an opportunity to prepare another schedule for presentation to the Board of Estimate and Apportionment for its adoption. If by July 1, 1901, such schedule shall not be adopted, the salaries of teachers are to be paid at the rates prevailing on December 31, 1899. The Commission deems that it has done its duty when it has attempted to sweep away all results of legislative action and has restored the local authorities to a position of autonomy in the matter of determining what the teaching staff shall be paid. After the general amendments to the Charter go into effect in 1902, ample provision is made requiring the Board of Aldermen to fix the salaries of all persons receiving any compensation from the City, including the teachers. In fixing such salaries, under another amendment recommended by the Commission, the Board of Aldermen or before July 1, 1901, the Board of Estimate and Apportionment, may provide for two parts of each salary, the one dependent upon the prevailing rentals and other expenses of living in the different parts of the city, and the other an ordinary salary remuneration which shall be uniform throughout the city. From facts presented to the Commission it is believed that the power thus conferred may be availed of with entire justice to the teachers and great saving to the City.

The commission recommends the repeal of the provision of the Davis law which makes it mandatory that there shall be appropriated for the salaries of the supervising and teaching staff an amount equal to four mills of the assessed valuation of all real and personal property subject to taxation within the city. This provision has resulted in the accumulation of a large surplus, the amount appropriated being more than sufficient for

the purposes specified. In view of the immense increase in the expenses of the City during the last three years, we do not feel justified in recommending the retention of this provision.

Other changes suggested are the following :

(a) Children under six years of age are only to be admitted to kindergarten classes. Unless the number of kindergartens is increased, this change will go far to make room for many children over six years of age who are now excluded from the schools, and is justified upon the ground that it is of less importance to accommodate children under six years of age than those older.

(b) The term of office of members of the Board of Education is made five years, and so arranged that the terms of only about a fifth of the Board expire each year, thus insuring a continuity which it is believed will add stability and avoid the intrusion of politics.

(c) The management of the finances of the Department is restored to the Finance Department.

INFERIOR LOCAL COURTS.

In respect to the Inferior Local Courts of the City no substantial change has been made. We are indebted to the Board of City Magistrates in the First Division for a comprehensive and accurate codification of the existing statutes relative to their powers and duties ; and we have in like manner codified the provisions relative to the Courts of Special Sessions, so that a continual reference to Chapter 601 of the Laws of 1895 will no longer be necessary. It should therefore be understood that the several sections relating to these Courts, although presented as new matter, are in reality, with unimportant exceptions, a mere re-enactment of existing law.

The only new feature in reference to these courts is in the addition of a Board of Control of Interpreters, composed of representatives of the Municipal Courts, the City Magistrates, and the Courts of Special Sessions. This Board is authorized to deal with the question of the appointment or assignment to duty of the interpreters throughout the City. It is thought that by this plan better service will be secured in these courts where the services of interpreters are constantly necessary; and that it will be possible to secure the employment of competent interpreters to deal with languages not very commonly spoken, but the interpretation of which is frequently necessary in a city so cosmopolitan as New York.

SALARIES AND TENURE OF OFFICE.

We have above alluded to the tenure of office of the heads of departments. In respect to subordinate officials we have considerably strengthened the hands of the Municipal Civil Service Commission.

In furtherance of the same purpose, namely, to remove the city officials, as far as can be done by legislation, from the influence of local factions, and to prohibit their activity in other fields than those for which they are employed and paid by the taxpayers of the City, we have extended the existing provisions of the Charter, which prohibit the uniformed members of the Police and Fire Departments from membership in associations intended to affect legislation. We have not only extended them so as to embrace the members of the Health and Street Cleaning Departments, and the heads of the departments in question, but also to the supervising and teaching staff in the Department of Education. One of the great evils of our municipal system has been the organized importunity

practised on the Legislature for an increase of salaries by large classes of city employees. This practice is an evil in itself, is demoralizing to the force, and it operates to relieve the local authorities of that responsibility which ought to be always fastened directly upon them.

The Commission further recommends a general provision affecting all officers, subordinates and employees of the City, forbidding them to be members of any political party-committees, or to be delegates to party conventions. Subordinates of the City are not prohibited from taking a proper and intelligent interest in political affairs. It is the belief of the Commission, however, that municipal public servants should not actively participate in partisan politics. Their compensation is derived from taxpayers of all parties, and so long as they accept and retain office the participation of office holders in politics should not extend so far as the direction and management of political campaigns. Provisions to enforce the prohibitions above referred to have been proposed, which it is believed will be effectual.

Another important general provision has been recommended prohibiting the employment of any public servant by his superior for any service other than public.

A number of requests were made from time to time both of the Commission and of its sub-committees to provide for an increase of salaries of various municipal employees, but the commission has, without exception (save in the four instances presently noted), declined to recommend any salary increases whatever. In the cases of the Comptroller, the Police Commissioner, the Borough Presidents and the City Magistrates in the First Division, changes in salaries have been deemed advisable. The reasons therefor in the cases of the Comptroller and the Police Commissioner have already been mentioned. As to the Borough Presidents, their functions and duties have been so greatly enlarged that the in-

crease recommended in their cases seems to us eminently just and proper. As to the City Magistrates in the First Division, the fact is that the salary of all the older appointees is now \$7,000, and in the case of the two or three recently appointed the salary is \$6,000 ; and the Commission has thought it desirable, in view of the laborious nature of their services, that the salaries of all the magistrates should be uniform.

The extraordinary growth in the expenditures of the City since consolidation over the expenditures of its constituent parts prior to consolidation, has attracted the attention of taxpayers and caused great and natural alarm. This growth is largely due to the increase in the charges for salaries. It is the belief of the Commission that in many, and in perhaps all departments of the City government, the number of persons employed is excessive, and that the salaries are in many cases too large. The expenditures for these purposes could probably be reduced several million dollars without loss of efficiency.

Unfortunately, it is not possible to fix responsibility for this condition. The local authorities, upon whom responsibility ought justly to rest, point to the fact that in many cases, involving numerous officials, salaries have been raised against their protest by the action of the State authorities. The State authorities, on the other hand, are able to point to a provision in the existing Charter, empowering the Municipal Assembly upon the recommendation of the Board of Estimate and Apportionment, to fix the salary of any officer of the City government, whether provided for in the Charter or not. A condition of things, under which such extravagant increases in the ordinary expenses of the City are possible, and under which it is impracticable to hold either City or State officers responsible, ought not to continue. It has seemed to the Commission that the power of determining the amount of salaries to be paid ought to be vested

absolutely in the officials chosen by the voters of the city itself, and that it is most unfortunate that any action in regard to such a matter should be taken by the representatives of other and distant localities.

We have therefore recommended that the powers already conferred upon the Board of Estimate and Apportionment and the Municipal Assembly shall be extended so that it shall no longer be merely within the power of the City legislature, but it shall also be its duty, to fix the salary of every person who draws pay from The City of New York. We propose to take away absolutely from every head of department the power to fix the salaries of his own subordinates—a power which has led to flagrant abuses in the past.

These provisions, coupled with the abolition of the Board of Public Improvements, and the present costly system of deputies and branch offices in the various boroughs should, we believe, lead to early and substantial reductions in salaries, and to an intelligent classification of subordinates throughout the whole city. Even if it does not, the voters of the city will know whom to blame; and they will have full power and authority, if they choose, to secure through a change of administration a change of policy in this regard.

CONCLUDING OBSERVATIONS.

The foregoing review of the proposed amendments to the Charter is necessarily incomplete, as we have confined ourselves to a statement of what seem to us the most important changes suggested. All our alterations and amendments will appear upon an examination of the accompanying bill, and it is to be hoped that the reasons for them will be obvious; and we may add that it is only upon a detailed examination that the extent and complexity of our task can be fully understood.

In the performance of the duty imposed upon us, every member of the Commission has borne an active part. Every portion of the Charter has been subjected to painstaking scrutiny by the entire Commission.

We have been greatly aided in the work of revision by the many suggestions we have received. Immediately after the appointment of the Commission we held a series of public meetings, of which notice was given through the press. At least one meeting was held in each Borough. A large number of citizens appeared before us on these occasions. We also addressed letters to all the heads of the City Departments and to various associations or individuals requesting an expression of their views in writing. A general request to the same effect was made to all citizens through the press. Many replies were received. By special invitation a number of the City officials and some other persons, whose advice on particular topics was desired, have appeared before the Commission or its sub-committees in executive session. We have had no occasion to avail ourselves of the extensive powers conferred upon us by the act under which we were appointed, by virtue of which we were authorized to compel the attendance of witnesses and the production of books and papers. We are glad to testify to the readiness and courtesy with which our requests for information have been responded to by the City officials.

It is not improper for us to say that besides the large amount of information acquired as above stated, the members of the Commission, in one way or another, collectively possessed very ample personal knowledge of the workings of almost every branch of the City government.

In conclusion, we must express our regret that we have been unable within the limited time afforded us to submit our work to preliminary public criticism. It has been exceedingly difficult, with the utmost diligence, to complete

the task of examination and amendment of the Charter of New York and to make our report within the statutory period.

Dated NEW YORK, December 1, 1900.

GEORGE L. RIVES, *President.*
GEO. W. DAVISON, *Secretary.*
FRANKLIN BARTLETT.
CHARLES C. BEAMAN.
JOHN D. CRIMMINS.
GEORGE CROMWELL.
WILLIAM C. DE WITT.
FRANK J. GOODNOW.
ISAAC M. KAPPER.
EDGAR J. LEVEY.
JAMES McKEEN.
ALEX. T. MASON.
CHAS. A. SCHIEREN.
HENRY W. TAFT.
JAMES L. WELLS.

AN ACT

TO AMEND THE GREATER NEW YORK CHARTER.

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

Section One. Chapter three hundred and seventy-eight of the laws of eighteen hundred and ninety-seven, entitled "An act to unite into one municipality under the corporate name of The City of New York, the various communities lying in and about New York harbor, including the city and county of New York, the city of Brooklyn and the county of Kings, the county of Richmond and part of the county of Queens, and to provide for the government thereof," is hereby amended so as to read as follows :

CHAPTER I.

BOUNDARIES, BOROUGHS, POWERS, RIGHTS AND OBLIGATIONS OF THE CITY.

The City of New York; corporations consolidated; [territory] territories; short title of this act.

§ 1. All the municipal and public corporations and parts of municipal and public corporations, including cities, villages, towns and school districts, but not including counties, within the following territory, to wit: The county of Kings, the county of Richmond, the city of Long Island City, the towns of Newtown, Flushing and Jamaica, and that part of the former town of Hempstead as it existed on the thirty-first day of December, eighteen hundred and ninety-seven bounded on the east and north by the east and north bounds of the former village of Far Rockaway, and on the east by a line drawn due north from the northwest corner of said village to the south line of the town of Jamaica, as it existed on the thirty-first day of December, eighteen hundred and ninety-seven, are hereby annexed to, united and consolidated with the municipal corporation known as the mayor, aldermen and commonalty of the city of New York, to be hereafter called "The City of New York"; and the boundaries, jurisdictions and powers of the said city of New York herein constituted, are for all purposes of local administration and government, hereby declared to be co-extensive with the territory above described; and the said city of New York is hereby declared to be the successor corporation in law and in fact of all the municipal and public corporations united and consolidated as aforesaid, with all their lawful rights and powers, and subject to all their lawful obligations, without diminution or enlargement except as herein otherwise specially provided; and all of the duties and powers of the several municipal and public corporations united and consolidated as aforesaid into The City of New York are here-

by devolved upon the board of aldermen [municipal assembly] of the said city of New York, so far as the same are applicable to said city, and not herein otherwise specially provided, to be exercised in accordance with the provisions of this act. This act may be cited by the short title of "The Greater New York Charter."

Division into boroughs.

§ 2. The City of New York, as constituted by this act, is hereby divided into five boroughs to be designated respectively: Manhattan, The Bronx, Brooklyn, Queens and Richmond; the boundaries whereof shall be as follows:

First. The borough of Manhattan shall consist of all that portion of The City of New York, as hereby constituted, known as Manhattan Island, Nuttin or Governor's Island, Bedloe's Island, Bucking or Ellis Island, the Oyster Islands, and also Blackwell's Island, Randall's Island and Ward's Island in the East or Harlem rivers.

Second. The borough of The Bronx shall consist of all that portion of The City of New York, as hereby constituted, lying northerly or easterly of the borough of Manhattan, between the Hudson river and the East river or Long Island sound, including the several islands belonging to the municipal corporation heretofore known as the mayor, aldermen and commonalty of the city of New York, not included in the borough of Manhattan.

Third. The borough of Brooklyn shall consist of that portion of The City of New York, as hereby constituted, hitherto known as the city of Brooklyn.

Fourth. The borough of Queens shall consist of [that portion of Queens county included in The City of New York, as hereby constituted.] the territory known as Queens county.

Fifth. The borough of Richmond shall consist of the territory known as Richmond county.

Name; powers and rights of the corporation; seal.

§ 3. The name of the corporation constituted by this act shall be "The City of New York," and the same shall by that name, be a body politic and corporate in fact and in law with power to contract and to be contracted with, to sue and be sued, to have a common seal and to have perpetual succession, with

all of the rights, properties, interests, claims, demands, grants, powers, privileges and jurisdictions held by the mayor, aldermen and commonalty of the city of New York, and held by each of the municipal and public corporations or parts thereof, other than counties, by this act united and consolidated with the corporation known as the mayor, aldermen and commonalty of the city of New York, except so far as modified or repealed by the provisions of this act.

Local government; [municipal assembly] board of aldermen; liabilities of corporations consolidated.

§ 4. For all purposes the local administration and government of the people and property within the territory hereby comprised within The City of New York shall be in and be exercised by the corporation aforesaid; and the board of aldermen [municipal assembly] as in this act constituted, subject to the conditions and provisions of this act, shall exercise all the powers vested in the corporation of The City of New York by this act or otherwise, save as in this act is otherwise specially provided. All valid and lawful charges and liabilities now existing against any of the municipal or public corporations or parts thereof, which by this act are made part of the corporation of The City of New York, including the county of Kings and the county of Richmond, or which may hereafter arise or accrue against such municipal and public corporations, or parts thereof, including the said counties of Kings and of Richmond, which but for this act would be valid and lawful charges or liabilities against the same, shall be deemed and taken to be like charges against or liabilities of the said The City of New York, and shall accordingly be defrayed and answered unto by it to the same extent, and no further, than the said several constituent corporations would have been bound if this act had not been passed. All bonds, stocks, contracts and obligations of the said municipal and public corporations, including the county of Kings and the county of Richmond, and such proportion of the debt of the county of Queens and of the town of Hempstead as shall be ascertained as hereinafter prescribed, which now exist as legal obligations, shall be deemed like obligations of The City of New York, and all such obligations as are authorized or required to be hereafter issued or entered

into, shall be issued or entered into by and in the name of the corporation of The City of New York.

Laws relating to the creation and payment of debts to remain in force; common debt; taxation.

§ 5. All laws, or parts of laws, heretofore passed creating any debt or debts of the municipal and public corporations united and consolidated as aforesaid, or for the payment of such debts, or respecting the same, as well as every such law respecting the debts of the corporation known as the mayor, aldermen and commonalty of the city of New York, shall remain in full force and effect, except that the same shall be carried out by the corporation hereby constituted, to wit: The City of New York, and under such name and in such form and manner as may be suitable to the administration of said corporation; and all the pledges, taxes, assessments, sinking funds, and other revenues and securities provided by law for the payment of the debts of the municipal and public corporations aforesaid, shall be in good faith enforced, maintained and carried out by the corporation of The City of New York. All the valid debts of the municipal and public corporations mentioned in the first section of this act, including the county of Kings and the county of Richmond and the proportion of the debt of the county of Queens and of the town of Hempstead aforesaid, and the valid debts of the towns, incorporated villages, and school districts herein united and consolidated with the corporation heretofore known as the mayor, aldermen and commonalty of the city of New York into The City of New York, as well as the debts of the latter corporation, shall be the common debt of The City of New York, as hereby constituted. So far as resort to taxation is authorized or necessary to pay such debts, such taxation shall extend equally throughout the territory of the corporation herein constituted, except that all assessments for benefits, heretofore laid or provided to be laid for the payment of any portion of such debts, or to reimburse any of the said municipal and public corporations which created such debt, in respect thereof, shall be preserved and enforced, it being the intent hereof that the obligations and liability of The City of New York, as the successor of municipalities and public corporations consolidated into it, shall be the same as, and not otherwise greater than, the respective obligations and liabilities of the several constituent corporations, and that The

City of New York shall succeed to all of their rights as well as to their obligations and liabilities in respect thereof, except as herein otherwise specially provided.

Effect where only a part of a corporation is annexed.

§ 6. Where part only of the territory of a municipal or public corporation is embraced by this act within the limits of The City of New York, as herein constituted, the respective rights, duties and liabilities of the said city and of the municipal or public corporations part of whose territory is so annexed to the said city, shall be as in this act provided. If any case shall arise for which this act does not make provision, or full and adequate provision arising out of such annexation, or out of the consolidation herein provided for, the board of aldermen [municipal assembly] may by ordinance make provision for such case, or for its equitable determination, so far as concerns The City of New York.

Same subject; creation of debt.

§ 7. No municipal or public corporation, part of whose territory is annexed to The City of New York, shall hereafter create any debt which shall bind property within The City of New York, nor shall such municipal or public corporation levy any tax or assessment upon property within The City of New York, as herein constituted.

Transfer of property; counties not to become indebted.

§ 8. In consideration of the foregoing provisions whereby The City of New York, as hereby constituted, assumes as aforesaid the valid debts, obligations and liabilities of the municipal and public corporations including the counties, towns, incorporated villages and school districts as aforesaid, and to carry out the scheme and purpose of this act, all of the public buildings, institutions, public parks, water works and property of every character and description, whether of a public or private nature, heretofore owned and controlled by any of the said municipal and public corporations or parts thereof, hereby consolidated into The City of New York, including any and all such property owned by the county of New York, the county of Kings, and the county of Richmond, wherever situated, and by the county of Queens situated in that portion thereof, which is included within the limits of The City of New York, as constituted by this act, and all the right, title and interest of the

said municipal and public corporations and counties as aforesaid, or any of them, in and to such property, are hereby vested in The City of New York and divested out of the said corporations and counties, and the power of said municipal and public corporations and of the said counties of New York, Kings, Queens and Richmond to become indebted, shall cease upon the consummation and taking effect of the consolidation herein provided for. [There is excepted from the provisions of this section the court house and county buildings in the county of Queens situated within the limits of The City of New York, as hereby constituted.]

Former funds; payable to The City of New York.

§ 9. All funds and moneys which, on the first day of January, eighteen hundred and ninety-eight, shall be held by or be payable to the receiver of taxes or the county treasurer of the county of Richmond, or to any officer of any of the municipal and public corporations, or parts of municipal and public corporations, hereby consolidated with the corporation heretofore known as the mayor, aldermen and commonalty of the city of New York, as well as all funds and moneys then held by or payable to any officer of said last-named corporation, shall be deemed to be held by and be payable to the corporation of The City of New York, constituted by this act, solely as the funds and moneys of said corporation, and upon the day aforesaid shall be delivered to the officer of said corporation entitled by this act to hold and control the same. All taxes levied against the town of Hempstead in the year eighteen hundred and ninety-seven shall be collectible and payable according to the provisions of the existing laws.

Expenses of the city for the [year] years 1898 and 1902.

§ 10. In the year eighteen hundred and ninety-seven it shall be the duty of the proper authorities of the various municipal and public corporations consolidated by this act into The City of New York, to prepare a budget for the year eighteen hundred and ninety-eight, as required by existing law, and to levy taxes for the year eighteen hundred and ninety-eight in the year eighteen hundred and ninety-seven, as required by existing law, as though such municipal and public corporations were not to be consolidated into The City of New York; and in so far as such taxes shall remain uncollected on the first day of

January, eighteen hundred and ninety-eight, they shall become valid liens due to the corporation by this act constituted, and shall be collected by it through the appropriate officers of The City of New York, as hereby constituted, pursuant in all respects to the laws under which said taxes were levied and were to be collected. On and after January first, eighteen hundred and ninety-eight, the funds received by the chamberlain of The City of New York, under this act, and the proceeds of revenue bonds issued in anticipation of the taxes for the year eighteen hundred and ninety-eight in The City of New York, as constituted prior to the passage of this act, and the proceeds of the tax levy therein of the year eighteen hundred and ninety-eight, may be used for the expenses of The City of New York, as constituted by this act, in such manner as the board of estimate and apportionment for that year may determine; and it shall be the duty of the board of estimate and apportionment to apportion the said funds to the various city departments as created by this act, so that such funds shall be used as nearly as may be, for the objects for which they were raised. The board of estimate and apportionment, during the year eighteen hundred and ninety-eight, shall have power to direct the issue of revenue bonds of The City of New York, to be redeemed out of the tax to be paid in the year eighteen hundred and ninety-nine, for such purposes and in such amounts as may be necessary to provide for the efficient conduct of the city in all its departments, during the year eighteen hundred and ninety-eight, provided that the sums so raised in the year eighteen hundred and ninety-eight shall be subject to be raised by taxation upon the various boroughs on the basis elsewhere provided in this act. Between January first and May first in the year nineteen hundred and two the board of estimate and apportionment shall have power from time to time to alter, modify and amend the budget for the year nineteen hundred and two; to change the titles, terms and conditions of appropriations contained therein; to add new appropriations and abolish any that may be found unnecessary; and in furtherance of these purposes shall have the power, if additional funds be required, to direct the comptroller to issue special revenue bonds redeemable from the tax levy of the year nineteen hundred and three.

CHAPTER II.

LEGISLATIVE DEPARTMENT.

Legislative power; where vested.

§ 17. The legislative power of The City of New York shall be vested in one house to be known and styled as "The Board of Aldermen of The City of New York" [two houses to be known, respectively, as the Council and the Board of Aldermen to be together styled "The Municipal Assembly of The City of New York"].

[Council; number of;] Board of aldermen; president; quorum; salaries; vacancies, how filled.

§ 18. The board of aldermen shall consist of members elected one from each of the aldermanic districts hereinafter provided for and of the president of the board of aldermen and of the presidents of the several boroughs. The president of the board of aldermen shall be chosen on a general ticket by the qualified voters of the city at the same time and for the same term as herein prescribed for the mayor. He shall be known as the president of the board of aldermen, and shall, except as herein provided, possess all the rights, privileges and powers, and perform the duties which on December thirty-first eighteen hundred and ninety-seven were conferred or imposed by law upon the president of the board of aldermen of the mayor, aldermen and commonalty of the city of New York. The aldermen shall be elected at the general election in the year nineteen hundred and one, and every two years thereafter. The term of office of each member of the board of aldermen shall commence on the first day of January after his election, and shall continue

for two years thereafter. The phrase, all the members of the board of aldermen, wherever used in this act, shall be taken and held to mean all the members of said board, including the president of the board of aldermen and the presidents of the several boroughs. The phrase, members elected to the board of aldermen, wherever used in this act, shall be taken and held to mean all the members of said board, except the president of the board of aldermen and the presidents of the several boroughs. Any vacancy which may occur among the members elected to the board of aldermen shall be filled by election by a majority of all the members elected thereto, and the person so elected to fill any such vacancy shall serve for the unexpired portion of the term. A majority of all the members of the board of aldermen shall constitute a quorum. The salary of the president of the board shall be five thousand dollars a year, and the salaries of the aldermen shall be one thousand dollars a year.

【The council shall consist of twenty-nine members, one of whom shall be its president. The president shall be chosen on a general ticket by the qualified voters of the city, at the same time and for the same term as herein prescribed for the mayor. He shall be known as the president of the council, and shall, except as herein provided, possess all the rights, privileges and powers, and perform the duties now conferred or imposed by law upon the president of the board of aldermen of the mayor, aldermen and commonalty of the city of New York. A majority of all the members elected to the council shall constitute a quorum. The salary of the president of the council shall be five thousand dollars a year. The salary of the other members of the council shall be one thousand five hundred dollars a year.】

[Council, how chosen; council] Aldermanic districts.

§ 19. The municipal assembly of The City of New York shall, within sixty days after the passage of this act, divide The City of New York into one hundred and twenty-three aldermanic districts in the following manner: The first, second, fourth, eighth, twelfth, thirteenth, sixteenth, seven-

tenth and twenty-sixth assembly districts of the county of New York and the third, eighth, ninth and fifteenth assembly districts of the county of Kings shall each constitute a separate aldermanic district. The third, fifth, sixth, seventh, ninth, tenth, eleventh, fourteenth, fifteenth, eighteenth, twentieth, twenty-second, twenty-fourth, twenty-fifth, twenty-seventh, twenty-eighth, twenty-ninth, thirtieth, thirty-second and thirty-third assembly districts of the county of New York and the first, second, fourth, fifth, sixth, tenth, eleventh, twelfth, thirteenth, fourteenth, sixteenth, seventeenth and nineteenth assembly districts of the county of Kings, shall each be divided into two parts, each of which parts shall constitute one aldermanic district. The nineteenth, twenty-third and thirty-first assembly districts of the county of New York, the seventh, eighteenth, twentieth and twenty-first assembly districts of the county of Kings, the first assembly district of the county of Queens, the territory comprising the second assembly district of said county, together with so much of the third assembly district of said county as lies within The City of New York considered as one parcel, and the county of Richmond shall each be divided into three parts, each of which parts shall constitute one aldermanic district. The twenty-first and thirty-fourth assembly districts of the county of New York shall each be divided into four parts, each of which parts shall constitute one aldermanic district. The thirty-fifth assembly district of the county of New York and those portions of the territory of the first and second assembly districts of the county of Westchester that lie within The City of New York considered as one parcel shall be divided into six parts, each of which parts shall constitute one aldermanic district. The several aldermanic districts into which any assembly district is divided shall be as compact in form as practicable, and each shall contain approximately the same number of inhabitants, excluding aliens. No election district of an assembly district shall be subdivided in forming said aldermanic districts. In

case the board of police or other lawful authority shall hereafter alter the boundaries of any of the election districts into which The City of New York is divided at the time of the passage of this act, such alteration shall be so made that no election district shall contain portions of two aldermanic districts. The municipal assembly shall within ten days after making such division cause to be filed in the office of the secretary of state and in the offices of the clerks of the counties of New York, Kings, Queens and Richmond, a description of each of such aldermanic districts, specifying the number of each district and of the inhabitants thereof, excluding aliens, and such districts shall remain unaltered until the city shall be redivided into assembly districts as provided by law. Whenever hereafter The City of New York shall be redivided into assembly districts as provided by law, the board of aldermen shall, within sixty days thereafter, in accordance with the provisions of this section, redivide the city into aldermanic districts, and shall increase or diminish the number of such districts, so that there shall always be two aldermanic districts for every assembly district lying wholly within The City of New York.

Qualification of members of the board of aldermen.

§ 20. Any citizen of the United States who is a resident of The City of New York shall be eligible for election to the board of aldermen in any one of the aldermanic districts.

Time of meeting of [council] board of aldermen.

§ 22. The first meeting of the board of aldermen [said council] in each year shall be held on the first Monday of January, at noon.

When president of [council] board of aldermen to act as mayor; powers; temporary chairman of [council] board of aldermen.

§ 23. Whenever there shall be a vacancy in the office of mayor, or whenever, by reason of sickness or absence from

the city, the mayor shall be prevented from attending to the duties of his office, the president of the board of aldermen [council] shall act as mayor, and possess all the rights and powers of mayor during such disability or absence. In case of a vacancy he shall so act until noon of the first day [Monday] of January succeeding the election at which the mayor's successor shall be chosen. [and at the next general election, at which municipal officers shall be elected, which shall take place more than thirty 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 [council], when acting as mayor in consequence of the sickness or absence from the city of the mayor, to exercise any power of appointment to or removal from office, unless such sickness or absence of the mayor shall have continued [ten] thirty days; or to sign, approve, or disapprove any ordinance or resolution unless such sickness or absence shall have continued at least nine days. The board of aldermen [council], shall elect a vice-chairman to preside over its meetings, who shall possess the powers and perform the duties of the president of the board of aldermen [council], when the president is sick, absent or under suspension, or while the president of the board of aldermen [council] is acting as mayor, or when a vacancy occurs in said office, and who shall, during such time, be a member of every board of which the president of said board of aldermen [council] is a member by virtue of his office.

[Board of aldermen; quorum]. Heads of departments; seats in board of aldermen; when required to attend.

§ 25. [A majority of all the members elected to the board of aldermen shall constitute a quorum]. Each head of an administrative department of the city shall be entitled to a seat in the board of aldermen [said board] and shall whenever required by it [practicable] attend its [the] meetings. [of the board] He shall answer all questions put to him by any member relating to the affairs of his department, provided he shall have received forty-eight hours written notice thereof and of the questions to be put. He [and] shall have the right to par-

ticipate in **[its]** the discussions of said board, but shall not have the right to vote. If an administrative department is composed of more than one member, the president or presiding officer of such department shall be entitled to such seat.

[Council and] Board of aldermen; sergeant-at-arms; rules; journal; sittings; expulsion of members.

§ 27. The **[council and the]** board of aldermen may **[each]** elect a sergeant-at-arms and such assistants as are needful to the orderly conduct of its **[their]** meetings, provided, however, that no expenditures for salaries for such sergeant-at-arms and such assistants shall exceed the amount appropriated therefor in the annual budget. The board of aldermen **[Each of said bodies]** shall determine the rules of its own proceedings; shall be the judge of the election returns and qualifications of its own members, subject, however, to review by certiorari of any court of competent jurisdiction; shall **[each]** keep a journal of its proceedings; shall **[each]** sit with open doors; shall **[each]** have authority to compel the attendance of absent members and to punish its members for disorderly behavior, and to expel any member with the concurrence of two-thirds of all the members elected to the board of aldermen **[such body]**. Every member so expelled shall thereby forfeit all his rights and powers, subject, however, to judicial review on certiorari.

City clerk [and clerk of municipal assembly]; appointment; term; duties; papers certified by him [to be]; how far admissible in evidence; fees for certification.

§ 28. The board of aldermen **[council]** shall, whenever a vacancy occurs in the office of city clerk, **[at the first meeting,]** appoint a clerk, who shall perform such duties as may be prescribed for him. The clerk so appointed shall also be the city clerk and the clerk of the **[municipal assembly]** board of aldermen, and shall hold his office for six years, and until his successor shall be appointed and has qualified, unless removed for cause. The city clerk shall have charge of all the papers and documents of the city, except such as are by law committed to the keeping of the several departments or of other

officers, and except as provided in section one hundred and thirty-six of this act as amended. He shall keep the record of the proceedings of the board of aldermen [municipal assembly]. He shall also keep a separate record of [engross] all the ordinances of the board of aldermen [municipal assembly] in a book to be provided for that purpose, with proper indices, which book shall be deemed a public record of such ordinances, and each ordinance shall be attested by said clerk. Copies of all papers duly filed in his office, and transcripts thereof, and of the records of proceedings of the board of aldermen [municipal assembly], and copies of the laws and ordinances of said city, certified by him under the corporate seal, shall be admissible in evidence in all courts and places [of the matters therein contained] in the same manner and for the same purposes as papers or documents similarly authenticated by the clerk of a county. [Said clerk shall appoint a clerk for the board of aldermen, who, apart from his service during the meetings of said board of aldermen, shall be in all things subject to his direction and control.] Said city clerk may be removed on charges by a two-thirds vote of all the members of the board of aldermen [council], subject, however, to judicial review on certiorari. [The said city clerk] He shall collect the following fees: For a copy of any book, account, record or other paper filed in his office, five cents for each folio; for a certification of any book, account, record or other paper filed in his office, twenty-five cents, and five cents in addition for each folio in excess of five; for each bond filed in his office, twelve cents; for filing all other papers, required by law to be filed in his office, six cents; for a certificate of appointment of a commissioner of deeds, twenty-five cents.

City clerk; proceedings of [municipal assembly] board of aldermen.

§ 29. Immediately after the adjournment of each meeting of the board of aldermen [municipal assembly], it shall be the duty of the city 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 to be published therein.

Certain ordinances and resolutions, how passed and approved; ayes and noes published.

§ 30. No ordinance or resolution providing for or contemplating the alienation or disposition of any property of the city, the granting of a franchise, 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 [pass the council or board of aldermen at the same session at which it is first offered], unless by unanimous consent, [and the same shall not] be finally passed or adopted by the board of aldermen [municipal assembly] until at least five days after such abstract of its provisions shall have been published, as provided in section twenty-nine. 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 publication in the City Record, and to state the amendments, if any, made thereto. In all cases the ayes and noes upon the final passage of such resolution or ordinance shall be taken, recorded and published.

Records open for inspection; other duties of clerk; sickness.

§ 31. It shall be the duty of the city clerk to keep open for inspection at all reasonable times, the records and minutes of the proceedings of the board of aldermen [municipal assembly]. 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. In the absence of said clerk by sickness or otherwise, his first deputy shall be vested with and possessed of all the rights and powers, and be charged with all the duties by this section or by law or ordinance imposed upon said clerk.

Id.; records and papers delivered to and kept by the [clerk] city clerk; clerks in boroughs.

§ 32. All the muniments, records, patents, deeds, minutes, writings and papers belonging to the mayor, aldermen and commonalty of the city of New York, which were [now] in the custody of the clerk of the board of aldermen thereof on the thirty-first day of December, eighteen hundred and ninety-seven, shall be delivered to and kept by the city clerk. The city clerk shall, except as otherwise expressly provided in this act, be the custodian of all like muniments, records, patents, deeds, minutes, writings and other papers belonging to any of the municipal and public corporations by this act united and consolidated into The City of New York, and shall have power to appoint a clerk in each of the boroughs constituted by this act, who shall have charge of the same, subject to the direction and control of said city clerk or of the board of aldermen [municipal assembly].

Id.; salary and deputies.

§ 33. The salary of the city clerk shall be seven thousand dollars a year, and he may appoint such deputies or clerks as are necessary to the discharge of his duties. [provided that the aggregate salaries of such deputies and clerks, including the salary of the city clerk, shall not exceed in any one year the sum appropriated therefor in the annual budget.]

Licenses to auctioneers.

§ 34. The city clerk shall have authority to grant licenses to any person engaged in and carrying on the business and occupation of auctioneer, or desiring to be so engaged, on such person filing a bond, approved by him, with two good sureties in the penal sum of two thousand dollars. The president of the board of aldermen [council] on complaint of any person having been defrauded by any auctioneer, or by 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 such auctioneer, and direct his bonds to be forfeited.

[Municipal assembly] Board of aldermen; journal; ayes and noes.

§ 35. The board of aldermen [Each house] shall keep a journal of its proceedings, and the ayes and noes of the members on any question shall, at the desire of any two members, be taken and entered therein. The ayes and noes shall be called and recorded on the final passage of any ordinance.

Id.; no member eligible to any city office.

§ 36. No member of the board of aldermen [municipal assembly] shall, during the term for which he is elected, be eligible or be appointed to any other office under the city, nor shall any member of said board of aldermen [assembly], while such, be a contractor with or an employee of the city or of the board of aldermen [either branch of the said assembly] in any capacity whatever.

Id.; meetings.

§ 37. The stated and occasional meetings of the board of aldermen [municipal assembly] and its proceedings and business shall be regulated by its own resolutions and rules, provided, however, that at least one stated meeting shall be held each month, except in its [the] discretion [of the municipal assembly] in August and September. The mayor may at any time call a special meeting of the board of aldermen [municipal assembly]. He shall call such meeting when a requisition for that purpose, signed by fifteen [nine] members [of the board of aldermen, and three members of the council] has been presented to him. Three days before any special meeting of the board of aldermen [municipal assembly] is held, notice of the time of the intended meeting and of the business proposed to be transacted, signed by the mayor, shall be published in the City Record, and at the same time the city clerk shall cause a copy of such notice to be left at or sent by post to the usual place of abode or of business of each member of the board of aldermen [municipal assembly]; but want of service of a notice upon any member shall not affect the validity of a meeting. No business shall be transacted at a special meeting other than that specified in the notice relating thereto.

Id.; style of ordinances.

§ 38. The style of ordinances shall be: "Be it ordained by the board of aldermen [municipal assembly] of The City of New York, as follows:"

Id.; vote required to pass ordinances and resolutions.

§ 39. Every legislative act of the board of aldermen [municipal assembly] shall be by ordinance or resolution. No ordinance or resolution shall be passed except by a vote of a majority of all the members of the board of aldermen. [elected to each house. In case any ordinance or resolution involves the expenditure of money, the creation of a debt, the laying of an assessment, or the grant of a franchise, the votes of three-fourths of all the members elected to each house 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 of the board of aldermen [elected to each house]. 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 board of aldermen [municipal assembly], except by a [the] unanimous vote [of both houses 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.

Mayor's veto.

§ 40. Every ordinance or resolution shall, before it takes effect, be presented, duly certified, to the mayor for his approval. The mayor shall return such ordinance or resolution to the board of aldermen [to the house in which it originated], within ten days after receiving it, or at the next meeting of the board of aldermen [house] after the expiration of said ten days, unless such ordinance or resolution be one of those mentioned in section thirty of this act, in which case the mayor shall return said ordinance or resolution [to the house in which

it originated] within ten days after the abstract of its provisions or a reference thereto shall have been published in the City Record as provided in said section thirty, or at the next meeting of the board of aldermen [house] after the expiration of said ten days. If he approve it, he shall sign it. If he disapprove it, he shall specify his objection 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. In case of disapproval, the objections of the mayor shall be entered at large on the journal of the board of aldermen [house] and the [house] board of aldermen 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 of the board of aldermen [elected to each house], it shall take effect; provided that in case the ordinance or resolution involves the expenditure of money, the creation of a debt, or the laying of an assessment, [or the grant of a franchise] it shall require a vote of three-fourths [five-sixths] of all the members of the board of aldermen [each house] to pass it over the mayor's veto; and if it involves the grant of a franchise, the mayor's veto shall be final. If the ordinance or resolution shall fail to receive upon the first vote upon such reconsideration such number of affirmative votes [in either house], 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 house. In case an ordinance or resolution shall embrace more than one distinct subject, the mayor may approve the provisions relating to one or more subjects, and disapprove the others. In such case those he shall approve shall become effective, and those he shall not approve shall be reconsidered by the board of aldermen [house], and shall only become effective if again passed, as above provided.

Ordinances to remain in force.

§ 41. The ordinances which on December thirty-first, eighteen hundred and ninety-seven, were [now] in force

respectively in The City of New York, the city of Brooklyn, Long Island City, and the other municipal and public corporations and parts thereof [hereby] consolidated with The City of New York, except so far as the same have since been modified, amended, or repealed by the municipal assembly of The City of New York, and all ordinances which on January first, nineteen hundred and two, are in force in The City of New York, are, so far as the same are not inconsistent with this act, hereby continued in full force and effect within the former limits of said respective cities and municipal and public corporations, or parts thereof, subject to modification, amendment or repeal by the board of aldermen [municipal assembly] of The City of New York. Such ordinances may be enforced by and in the name of "The City of New York."

[Municipal assembly] Board of aldermen; powers and duties of former boards.

§ 42. [46] Except as otherwise provided in this act, all the powers and duties which on December thirty-first, eighteen hundred and ninety-seven, were conferred or charged upon the common council or the mayor, aldermen and commonalty of the city of New York, or the board of aldermen thereof, or upon the common council of the city of Brooklyn or of Long Island City, or upon any board, body or officer of any of the municipal and public corporations or parts thereof, [hereby] consolidated with The City of New York, as heretofore known and bounded, and all the powers and duties which on January first, nineteen hundred and two, are conferred or charged upon the municipal assembly of The City of New York shall be exercised and performed by the board of aldermen [municipal assembly] of The City of New York, as hereby constituted, subject, nevertheless, to the power of approval or disapproval by the mayor of said city, as provided in this act.

Id.; police, health, park, fire and building regulations.

§ 43. [47] The board of aldermen [municipal assembly] shall have power to make, establish, alter, modify, amend and repeal all ordinances, rules, and police, health, park, fire and

building regulations, not contrary to the laws of the state, or the United States, as they may deem necessary to carry into effect the powers conferred upon The City of New York by this act, or by any other law of the state, or by grant; and such as [it] they may deem necessary and proper for the good government, order and protection of persons and property, and for the preservation of the public health, peace and prosperity of said city and its inhabitants, except so far as power is conferred by this act upon presidents of boroughs, the police, health, park, and fire departments respectively to make rules for the government of the persons employed in and by said departments. Nothing in this section contained shall be construed to impair the powers conferred by this act upon the department of education. [the legislative power respecting the health, police, park, fire and building departments shall be conferred upon said departments respectively by the provisions of this act, and except that any modification of the existing rules, regulations and ordinances affecting any of the departments and all ordinances to be passed to govern the board of public improvements or any of the departments thereof, must originate with the department concerned, or with said board, and must be adopted or rejected by the municipal assembly without amendment.]

Id.; [foregoing] enumeration of powers not restrictive; general power.

§ 44. [50] [The foregoing or other] No enumeration of powers in this act shall [not] be held to limit the legislative power of the board of aldermen [municipal assembly] which, in addition to all enumerated powers, [thereto] may exercise all of the powers vested in The City of New York by this act, or otherwise, by proper ordinances, rules, regulations and by-laws not inconsistent with the provisions of this act, or with the constitution or laws of the United States or of this state; and, subject to such limitations, may from time to time ordain and pass all such ordinances, rules, regulations and by-laws applicable throughout the whole of said city or applicable only to specified portions thereof, as to the said board of aldermen

【municipal assembly】 may seem meet for the good rule and government of the city, and to carry out the purposes and provisions of this act or of other laws relating to the said city, and may provide for the enforcement of the same by such fines, penalties, forfeitures and imprisonment as may by ordinance or by-law be prescribed.

Franchises for street railways [; ferries].

§ 45. The board of aldermen **【municipal assembly】** is authorized to grant from time to time to any corporation thereunto duly authorized the franchise or right to construct and operate railways in, upon, over, under and along streets, avenues, waters, rivers, public places, parkways or highways of the city, but no such grant shall be made except upon the limitations and conditions of this act elsewhere provided in respect of the grant by the board of aldermen **【municipal assembly】** of franchises and rights in or under the streets, avenues, waters, rivers, public places, parkways and highways of the city. **【And further, to the end that cheap, easy and convenient intercourse may be had between all parts of the city, The City of New York, as hereby constituted, shall have full and exclusive power to establish, and full power to enjoy by leasing the same or otherwise, and to maintain and regulate ferries over all streams and waterways within or adjoining the limits of the said city.】** The board of aldermen **【municipal assembly】** may pass appropriate ordinances not inconsistent with law or with this act, or with the vested rights of existing companies or corporations, to enforce the provisions of this section and to carry out its purposes. Nothing in this act contained shall repeal or affect in any manner the provisions of the rapid transit acts applicable to the corporation heretofore known as the mayor, aldermen and commonalty of the city of New York, or any municipality united therewith or territory embraced therein, or to repeal or affect the existing general laws of the state in respect to street surface railroads. The consent or approval of the board of aldermen **【municipal assembly】** to or for the issue of corporate stock of The City of New York, as provided by section one hundred and sixty-nine shall not be necessary to authorize the comptroller to issue such stock for the purposes prescribed in **【said】** chapter four of the laws of eighteen hundred and

ninety-one as amended. The board of estimate and apportionment and the comptroller of The City of New York shall, anything herein contained to the contrary notwithstanding, be subject to all the duties and obligations prescribed in said chapter four of the laws of eighteen hundred and ninety-one as amended for the board of estimate and apportionment and comptroller therein mentioned. Upon the execution of any contract made pursuant to chapter four of the laws of eighteen hundred and ninety-one as amended, the board of rapid transit railroad commissioners may, in its discretion, make request upon the board of estimate and apportionment for the authorization of such corporate stock, either for such amounts from time to time as they shall deem the progress of the work to require, or for the full amount sufficient to pay the entire estimated expense of executing such contract. In case they shall make requisition for the entire amount, the comptroller shall endorse on the contract his certificate that funds are available for the entire contract whenever such stock shall have been authorized to be issued by said board of estimate and apportionment; and in such case such stock may be issued from time to time thereafter in such amounts as may be necessary to meet the requirements of such contract. The certificate of the comptroller, mentioned in section one hundred and forty-nine of this act, shall not be necessary to make such contract binding on The City of New York.

Power to acquire additional water-works.

§ 46. [42] The board of aldermen [municipal assembly] is authorized, in accordance with the provisions of this act, to construct, establish and maintain, or to acquire by purchase or condemnation and maintain in all parts of the city, additional water-works to supply the city or any part thereof and its inhabitants with water, and to provide for the distribution and sale to the inhabitants of the city of such water, and fix the terms thereof, and acquire and hold property, real and personal, within and beyond the limits of the city for said purposes. The board of aldermen [municipal assembly] may pass appropriate ordinances, not inconsistent with law, with this act or with any vested rights of existing companies or corporations, to enforce the provisions of this section and to carry out its purposes.

[Id.:] Further powers; bonds for specified public improvements.

§ 47. [48] The board of aldermen [municipal assembly] shall have power to provide by ordinance for the acquisition, construction, or establishment of markets; for the acquisition and construction of parks, parkways, boulevards and drive-ways; for the building of bridges [and the establishment of ferries] over, and of tunnels under any stream or waterway within or adjoining the limits of the city; for the building of docks, wharves, or piers, and for acquiring land by purchase or condemnation for said purposes; for acquiring, or constructing public buildings, including school-houses and sites therefor for the use of the city; for the repaving of streets; and for any of the foregoing purposes, may create loans and authorize the issue of bonds, or other evidences of indebtedness, to pay for the same, payable at such times, and in such manner, and at such rates of interest as it may by ordinance prescribe; but no bonds or other evidences of indebtedness shall be issued under the authority of this* section, unless the proposition for creating such debt, shall first be approved by a majority vote of the whole [a resolution or vote of a majority of all the members of the] board of estimate and apportionment, entered on the minutes or record of such board. [; and provided further, that in the case of the issue of bonds or other evidences of indebtedness for the repaving of streets, the vote of the board of estimate and apportionment must be unanimous.]

Board of aldermen, to act within limited time on bond issues and grants of franchises.

§ 48. After any proposition for creating a debt by the issue of bonds for any of the purposes specified in section forty-seven of this act as amended, or after any proposed franchise or right to use the streets, avenues, waters, parkways or highways of the city, has been approved by a resolution or vote of the board of estimate and apportionment, it shall be the duty of the board of aldermen upon receiving a copy of such resolution or vote to appoint a day not less than one week nor more than two weeks after receipt thereof for the

consideration of the subject matter. The board of aldermen shall, on the day so fixed, proceed with the consideration thereof, and may continue and adjourn such consideration from time to time until a final vote shall be taken thereon as hereinafter provided. Within six weeks after the copy of such resolution or vote of the board of estimate and apportionment shall have been first received by the board of aldermen, a final vote shall be taken thereon by ayes and noes. If a majority of all the members of the board of aldermen shall vote against such proposition or franchise it shall be deemed to be rejected. If a majority of all the members of the board of aldermen shall not vote against such proposition or franchise within the six weeks above limited, then it shall be deemed at the expiration of said period to have been passed by the requisite vote of the board of aldermen. The action of the board of aldermen in passing any such proposition or franchise, whether by an affirmative vote, or by a failure of a majority of all the members of the board of aldermen to vote against the same, shall be subject to the approval of the mayor and to the action of the board of aldermen in case of a veto, as provided in section forty of this act.

Id.; ordinances and regulations for certain purposes.

§ 49. The board of aldermen shall have power to make, amend and repeal ordinances, rules, regulations and by-laws not inconsistent with this act, or with the constitution and laws of the United States or of this state, for the following purposes:

1. In relation to the inspection and sealing of weights and measures, and the keeping in use of proper weights and measures by vendors.
2. In relation to the inspection, weighing and measuring of firewood, coal, hay and straw and the cartage of the same.
3. In relation to street vagrants, beggars and mendicants.
4. In relation to the use of guns, pistols, fire-arms, fire-

crackers, fire-works and detonating works of all descriptions.

5. In relation to intoxication, fighting and quarreling in the streets, the breaking or extinguishing of street lamps, and the wilful breaking or defacing of windows, porches, knockers or other fixtures.

6. In relation to places of public amusement.

7. In relation to the construction, repair and use of vaults, cisterns, areas, hydrants, sewers and pumps.

8. In relation to partition fences and walls.

9. In relation to the construction, repair, care and use of markets.

10. 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.

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

12. To regulate swimming and bathing in the waters of and bounding the city, to establish and maintain such public baths and public comfort stations as they may deem necessary, and to establish suitable rules and regulations for the management of the same.

13. To prohibit and suppress all gaming-houses and places for gaming in the said city.

14. To provide for the more effectual suppression of vice or immorality, and the preserving of peace and good order in said city.

15. To enlarge or extend from time to time the limits of the fire districts of the city, and to establish additional fire districts, and from time to time to extend the same.

16. To regulate the use of every building now used or hereafter to be used as a hotel, in so far as the use thereof may involve the safety of the inmates in case of fire.

17. And the board of aldermen shall also fix the annual license fee, not exceeding the sum of twenty dollars, for each street or horse car daily operated or used in that portion of the

city heretofore known as the city of Brooklyn. Every railroad company operating or using such cars shall, on or before the first day of June in each year, certify to the city clerk the average number of cars daily operated and used by said company, which certificate shall be verified by the oath of one of the managing officers of said company, and every such railroad company shall, on or before the first day of July in each year, pay to the chamberlain of The City of New York the license fee so established for the average number of cars so operated and used by said company. The said license fees shall be taken in full satisfaction for the use of the streets or avenues, but the same shall not release said company from any obligations required by law to keep such streets and avenues, or any part thereof, in repair, which said obligations and the contracts, laws or ordinances, creating and enforcing the same, are hereby continued in full force and operation. But nothing in this subdivision contained shall be construed to release any railroad company in The City of New York, as constituted by this act, from any duty or obligation existing at the time this act takes effect by virtue of any law, ordinance or contract.

Ordinances in relation to the matters mentioned in this section may provide for the enforcement thereof in the manner specified in section forty-four of this act as amended.

[Subject to the provisions of this act, the municipal assembly shall have power within said city to make, establish, publish and modify, amend or repeal ordinances, rules, regulations and by-laws not inconsistent with this act, or with the constitution or the laws of the United States, or of this state, for the following purposes:

1. In relation to the inspection and sealing of weights and measures, and the keeping in use of proper weights and measures by vendors; and may by ordinance regulate the duties and fees or salary 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 the ordinances, and to provide for the appointment of such

inspectors and sealers by the mayor as to them shall seem proper. They may assign a particular district of the said city for each of 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.

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

3. To regulate the use of streets, highways, roads, public places and sidewalks by foot passengers, animals, vehicles, cars, motors and locomotives, and to prevent encroachments upon and obstructions to the same, (and to authorize and require their removal by the proper department; 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 repairing of a building on a lot opposite the same, nor shall they permit the erection of booths and stands within stoop lines, except for the sale of newspapers, periodicals, fruits and soda water, and with the consent in such cases of the owner of the premises.

4. To regulate by general ordinance, the opening of street surfaces for purposes authorized by law, subject to such restrictions as have already been prescribed by statute.

5. 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 to number or renumber any houses or to change 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.

6. 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 removing of ice and snow from them.

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

8. To provide for and regulate street pavements, crosswalks, curbstones, gutter-stones, sidewalks, and to provide for regulating, grading, flagging, curbing, guttering, and subject to the provisions of this act, lighting streets, roads, places and avenues.

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

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

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

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

13. In relation to places of public amusement.

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

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

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

17. In relation to the construction, repair and use of vaults, cisterns, areas, hydrants, sewers and pumps.

18. In relation to partition fences and walls.

19. In relation to the construction, repair, care and use of markets.

20. In relation to the licensing and business of public cartmen, truckmen, hackmen, cabmen, expressmen, cardrivers and boatmen, pawn-brokers, junk dealers, keepers of intelligence offices, dealers in second-hand articles, hawkers, peddlers, vendors and the keeping of dogs, menageries, circuses, common shows and scalpers in coal freights, bone boiling, fat rendering and other noxious businesses, and to fixing the license, if any, therefor. All licenses created therefor shall be according to an established form, and shall be regularly numbered and duly registered, as shall be prescribed by the municipal assembly; provided, however, that all laws heretofore passed in respect to the avocations above named within the city, shall remain in full force and effect, to the exclusion of any power granted by this provision so far as their terms shall require.

21. The municipal assembly shall also fix the annual license fee, not exceeding the sum of twenty dollars, for each street or horse car daily operated or used in that portion of the city heretofore known as the city of Brooklyn. Every railroad company operating or using such cars, shall, on or before the

first day of June in each year, certify to the city clerk the average number of cars daily operated and used by said company, which certificate shall be verified by the oath of one of the managing officers of said company, and every such railroad company shall, on or before the first day of July in each year, pay to the chamberlain of the city of New York, the license fees so established for the average number of cars so operated and used by said company. The said license fees shall be taken in full satisfaction for the use of the streets or avenues, but the same shall not release said company from any obligations required by law to keep such streets and avenues or any part thereof, in repair, which said obligations and the contracts, laws or ordinances, creating and enforcing the same, are hereby continued in full force and operation. But nothing in this subdivision contained shall be construed to release any railroad company in The City of New York, as constituted by this act, from any duty or obligation existing at the time this act takes effect by virtue of any law, ordinance or contract.

22. To the more effectual suppression of vice or immorality, and the preserving of peace and good order in said city.

23. For the licensing and otherwise regulating the use of dirt carts.

24. 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.

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

26. To make such regulations in reference to the running of stages, omnibuses, trucks and cars as may be necessary for the convenient use and the accommodation of the streets, piers, wharves and stations, and whenever in shipping or receiving goods, wares or other merchandise at any of the shipping lines, by steamboat, canal boat, sailing vessels, railroad, or from or to any warehouse during the specified hours for receipt or delivery of freight, a truckman is unreasonably detained over thirty minutes by reason of said steamboat, canal boat, sailing vessel, railroad company or warehouse not employing sufficient help for prompt receipt or delivery of freight, or by reason of the failure to use all of the facilities at their disposal for the prompt receipt and delivery of freight, to regulate the amount said truckmen shall be entitled to be paid, which

amount shall not be less than the sum of one dollar per hour for every hour which he is so unreasonably detained, which amount shall be paid to said truckman by the company, corporation or person causing such delay.

27. To 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 municipal assembly.

28. The municipal assembly may authorize the establishment, operation or extension of any right for the running of omnibuses or stages, and may terminate or alter such authority conformably to the statutes applicable thereto.

29. To regulate swimming and bathing in the waters of, or bounding the city, and to establish and maintain in the city such public baths and public comfort stations as they may deem necessary, and to establish suitable rules and regulations for the management of the same.

30. To prohibit and suppress all gaming-houses and places for gaming in the said city.

31. To enlarge or extend from time to time the limits of the fire districts of the city, and to establish additional fire districts, and from time to time to extend the same.

32. To regulate the use of every building now used, or hereafter to be used as a hotel, in so far as the use thereof may involve the safety of the inmates in case of fire, by such ordinances or resolutions only as may be prepared and recommended to the said municipal assembly by the head of the department of buildings.】

Id.; to regulate the use of streets, processions, etc.

§ 50. The board of aldermen shall have power to regulate the use of streets and sidewalks by foot passengers, animals or vehicles; to regulate the speed at which horses shall be driven or ridden and at which vehicles shall be propelled in the streets; to regulate processions or parades occupying or marching upon any street; to prevent encroachments upon and obstructions to the streets and to authorize and require their removal by the proper officers; to regulate the opening of street surfaces for purposes authorized by law; to regulate the numbering of

houses and lots in the streets and the naming of streets, except that it shall not be lawful to number or renumber any houses or to change the name of any street save between the first day of December in any year and the first day of May next ensuing; to regulate and prevent the throwing or depositing of ashes, garbage or other filth or rubbish of any kind upon the streets; to regulate the use of the streets for signs, sign posts, awnings, awning posts, horse-troughs, urinals, posts for telegraph or other electric wires, and other purposes; to regulate street pavements, cross-walks, curbstones, gutter-stones and sidewalks; to provide for regulating, grading, flagging, curbing, guttering and lighting the streets; to regulate public cries, advertising noises, steam whistles, and ringing bells in the streets; to regulate the exhibiting of banners, placards or flags in or across the streets or from houses or other buildings; to regulate the exhibition of advertisements or handbills along the streets; and to make all such regulations in reference to the running of stages, omnibuses, trucks and cars as may be necessary for the convenient use and the accommodation of the streets, piers, wharves or stations. Whenever the word "street" or the plural thereof occurs in this section it shall be deemed to include all that is included by the terms "street, avenue, road, alley, lane, highway, boulevard, concourse, public square and public place" or the plurals thereof respectively. Wherever the word "vehicle" or the plural thereof occurs in this section it shall be deemed to include wagons, trucks, carts, cabs, carriages, stages, omnibuses, motors, automobiles, locomobiles, locomotives, bicycles, tricycles, sleighs or other conveyances for persons or property. The board of aldermen shall not have 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 repairing of a building on a lot opposite the same, nor shall they permit the erection of booths and stands within stoop lines, except for the sale of newspapers, periodicals, fruits and

soda-water, and with the consent in such cases of the owner of the premises. The board of aldermen shall not pass any special ordinance in relation to any of the matters mentioned in this section. All ordinances in relation thereto shall be general ordinances which may either apply throughout the whole city or throughout specified portions thereof, and shall provide for the enforcement thereof as specified in section forty-four of this act as amended. Nothing herein contained shall be construed to prevent the board of aldermen from providing by special ordinance for the erection or maintenance on the streets or waters within The City of New York of fountains, public comfort stations, urinals, public baths, or other like structures maintained by the public authorities; for the establishment of which the said board is hereby empowered to provide. All general ordinances relating to authorized structures, encroachments or obstructions in or upon the streets or sidewalks by persons other than the authorities of The City of New York, or other public authorities, shall fix a definite license fee for every such authorized structure, encroachment or obstruction according to the character, extent and duration thereof, and shall provide for the issuing of revocable licenses therefor, which shall be according to an established form and shall be regularly numbered and duly registered as shall be prescribed by the board of aldermen.

Id.; licensing and regulating certain trades or business; dog licenses, etc.

§ 51. The board of aldermen shall have power to provide for the licensing and otherwise regulating the business of dirt carts, public cartmen, truckmen, hackmen, cabmen, expressmen, car drivers and boatmen; of boot-blacks; of pawnbrokers, junk-dealers, keepers of intelligence offices, dealers in second hand articles, hawkers, peddlers, vendors and scalpers in coal freights; of menageries, circuses and common shows; of bone boiling, fat rendering and other noxious businesses; and shall

have power to provide for licensing the keeping of dogs. The board of aldermen shall also have power to regulate the rates of fare to be taken by owners or drivers of hackney coaches, carriages, motors, automobiles or other vehicles, and to compel the owners thereof to pay annual license fees. All ordinances in relation to any of the matters mentioned in this section shall be general, shall provide for the enforcement thereof in the manner specified in section forty-four of this act as amended, and shall fix the license fees to be paid, if any. All licenses shall be according to an established form, and shall be regularly numbered and duly registered as shall be prescribed by the board of aldermen.

Rules and regulations as to navigable waters within the city limits.

§ 52. [319. It shall be the duty of the board to provide and enforce] The board of aldermen shall have power to establish by general ordinances proper rules and regulations for the safety of passengers on excursion steamers, yachts, and all crafts taking part in regattas or races, whether as observers or participants, in the navigable waters embraced within the corporate limits of the city and [to preserve] for preserving the public peace and [prevent] preventing undue interference with, or interruption of such regattas and races. Such rules and regulations when so adopted shall be duly published in the public newspapers and any wilful violation of the same by any person shall subject the offender to the penalties of a misdemeanor and if the holder of a license from the city to a forfeiture thereof.

Licenses to run omnibuses, etc.

§ 53. The board of aldermen shall have power to authorize the establishment, operation or extension of any right for the running of stages or omnibuses, whether operated by horses or by other motive power, and to license and regulate such stages and omnibuses. Every proposition for a license to maintain or operate a line of stages or omnibuses, or to extend an existing line, or to change the motive power, shall be referred by the board of aldermen to the board of estimate

and apportionment, who shall, after due inquiry, recommend such terms and conditions for granting the same as in their judgment will best protect the interests of the city and the traveling public. It shall be one of the conditions of granting any such license that the person operating the same shall pay annually into the city treasury for the first five years after commencing operations thereunder five per cent. of the gross receipts of the entire route, and shall pay into the city treasury annually, after the expiration of such five years, seven per cent. of such gross receipts. No such license shall be granted by the board of aldermen except on terms and conditions approved by the board of estimate and apportionment. No such license shall be granted for any longer period than twenty-five years; but the ordinance granting such license may provide, upon payment of an increased percentage to be fixed therein, for giving the grantee a renewal for a further period of not more than twenty-five years. Upon the adoption of an ordinance by the board of aldermen granting a license as in this section provided, the route may be maintained and operated in accordance therewith, and the ownership of such route may be transferred. No license granted under this section shall confer any exclusive right or privilege unless the consent in writing, duly acknowledged, of the owners of a majority of the property in each of the streets along the proposed route shall have been obtained and filed with the board of aldermen before the adoption of the ordinance granting such license.

[Power to appoint special committees;] Id.; to see to the faithful execution of the laws, etc.

§ 54. [44] The board of aldermen [municipal assembly] shall have power and it shall be its duty to see to the faithful execution of the laws and ordinances of the city; and it may [the municipal assembly may, by joint resolution] appoint from time to time a special committee to inquire whether the laws and ordinances of the city relating to any subject or to any department of the city government are being faithfully ob-

served, and the duties of the officers of such department or of any officer of the city are being faithfully discharged, also to examine and report whether there are any unnecessary, inefficient or unfit employees, any excessive salaries or compensations paid, and generally in respect of any and all matters which will conduce to the orderly and economical administration of the affairs of the city government or any department thereof. Such committee shall have access to the books and records of the city or of any department or officer thereof.

Id.; security to be required from certain officers.

§ 55. It shall be the duty of the board of aldermen [municipal assembly] where no provision has been made by law in respect thereto, 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 entrusted, by requiring from them sufficient security for the performance of their duties of trust, which security shall be annually renewed; but the security first taken shall remain in force until new security shall be given. In the event of a failure of the board of aldermen to fix any such bond, the heads of the respective departments and the presidents of the several boroughs shall have power to fix such bond subject to modification by the board of aldermen.

[Id.; prescribed] Salaries of officers.

§ 56. The salaries of all officers whose offices may be created by the board of aldermen [municipal assembly] 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. It shall be the duty of the board of aldermen [the municipal assembly shall have power], upon the recommendation of the board of estimate and apportionment, to fix the salary of every [any] officer or person whose compensation is paid out of the city treasury other than day laborers, irrespective of the amount fixed by this act, except that no change shall be made in the salary of an elected officer or head of a department during his tenure of office [the term for which he was elected or appointed]. Salaries need not be uniform throughout the

several boroughs, but may, in the discretion of the board of estimate and apportionment, be made to consist of two elements: First, remuneration for work done, which shall be the same throughout all the boroughs for positions of like character; Second, an additional sum based upon an estimate of the prevailing rentals and expenses of living in the borough where the services rendered are performed, and which may vary in the several boroughs. The board of aldermen may reduce but may not increase any salary recommended by the board of estimate and apportionment; but the action of the board of aldermen on reducing any salary so recommended shall be subject to the veto power of the mayor as provided in section forty of this act. In case the board of aldermen shall vote to reduce more than one salary, the mayor may approve the reduction of one or more salaries and may disapprove the reduction of others. In such case the reductions he shall approve shall become effective; and as to those which he shall not approve, the recommendations of the board of estimate and apportionment shall become effective unless the reductions be again passed by a three-fourths vote of the board of aldermen in the manner provided in section forty of this act. All salaries as fixed on the first day of January, nineteen hundred and two, shall continue in force until fixed by the board of aldermen as in this section provided.

Id.; publication of [code of] ordinances; codification.

§ 57. The ordinances in force in The City of New York [of the municipal assembly] shall, as far as practicable be reduced to a code and published. The board of aldermen shall annually appoint a committee whose duty it shall be to compile the general ordinances in force on January first, nineteen hundred and two, so far as the same remain in force, together with all general ordinances thereafter adopted; and the board of aldermen shall cause such general ordinances so compiled to be annually published.

Id.; commissioners of deeds; appointment; [powers of] oath; term; clerk therefor.

§ 58. The board of aldermen is hereby authorized and is empowered to appoint commissioners of deeds from time to time, who shall hold their offices for two years from the date of their appointment; such appointment shall not require [the concurrence of the council nor] the approval of the mayor, and hereafter, at the time of subscribing or filing the oath of office, the city clerk shall collect from each person appointed a commissioner of deeds the sum of five dollars, and he shall not administer or file said oath unless said fee has been paid. All fees collected by the city clerk under and by virtue of this act, except as hereinafter provided, shall be accounted for and paid over monthly into the treasury of the city. The city clerk shall appoint an officer, to be known as commissioner of deeds clerk, whose duties shall be to enter the names of commissioners of deeds appointed, in a book kept for that purpose, make out certificates of appointment and to discharge such other duties as the city clerk may designate. Said commissioner of deeds clerk shall receive a salary at the rate of twelve hundred dollars per annum, payable monthly. Any person hereafter appointed to the office of commissioner of deeds in and for The City of New York by the board of aldermen, before entering upon the discharge of the duties of said office and within thirty days after such appointment, shall take and subscribe before the commissioner of deeds clerk, in the office of the city clerk, the following oath of office: That the applicant is a citizen of the United States and of the state of New York, and a resident of The City of New York; that he will support the constitution of the United States and the constitution of the state of New York, and faithfully discharge the duties of the office of commissioner of deeds. Any commissioner of deeds who may remove from The City of New York during his term of office is hereby required to notify the city clerk of such removal. Any person appointed to the office of commissioner of deeds under the provision of this section upon qualifying as above provided may take acknowledgments and administer oaths in any part of The City of New York, without filing a certificate of his appointment in the office of the clerk of the county in which he resides or in which the borough in which the acknowledgment is taken or

the oath administered is situated, and all papers so acknowledged or verified shall be recorded or read in evidence without any further proof in all the boroughs of The City of New York. The city clerk upon the request of any commissioner appointed under the provisions of this act must make and deliver to such commissioner a certificate under his hand and official seal, showing the appointment and term of office of such commissioner, which certificates may be filed in the office of the clerk of the counties of New York, Kings, Queens and Richmond upon payment of six cents in each office for filing. The clerks of the counties of New York, Kings, Queens and Richmond shall each keep a book in which shall be registered the signatures of the commissioners so filing such certificate, and said clerks of the counties of New York, Kings, Queens and Richmond shall upon demand and upon payment of the sum of twenty-five cents, authenticate a certificate of acknowledgment or proof or oath taken before such a commissioner of deeds, by subjoining or attaching to the original certificate of acknowledgment or proof or oath, a certificate under his hand and official seal specifying that at the time of taking the acknowledgment of proof, the officer taking it was duly authorized to take the same; that the authenticating officer is acquainted with the former's handwriting, or has compared the signature to the original certificate with that deposited in his office by such officer, and that he verily believes the signature to the original certificate is genuine, and if the original certificate is required to be under seal, he must also certify that he has compared the impression of the seal affixed thereto with the impression of the seal of the officer who took the acknowledgment or proof deposited in his office, and that he verily believes the impression of the seal upon the original certificate to be genuine, without regard to the county in which said acknowledgment was taken or oath administered, provided that said county be wholly within The City of New York, or if it be partly within The City of New York, that the acknowledgment was taken or oath administered in that portion of said county which is included within the boundaries of The City of New York. Any instrument or paper acknowledged before a commissioner within The City of New York and certified by the clerk of the county of New York, Kings, Queens or Richmond, as hereinbefore provided,

shall be recorded and read in evidence in any county of this state without further proof. The term of office of every commissioner of deeds who, on the first day of May, eighteen hundred and ninety-eight, shall be holding over after a term of two years, shall then cease.

[Municipal assembly] Board of aldermen; trustees of public property.

§ 59. The board of aldermen [municipal assembly] and the several members thereof and all officers and employees of the city are hereby declared trustees of the property, funds and effects of said city 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, when authorized to pay taxes therein, and 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 cestui que trust, shall be entitled, as against said trustees, and in regard to said property, funds and effects, to all the rights and privileges provided by law for 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 the city or by any co-trustee or cestui que trust aforesaid.

[Municipal assembly] Board of aldermen; violations of law by members of.

§ 60. Any member of the board of aldermen [municipal assembly] who shall knowingly and wilfully disregard any provision of law applicable to the members of said board of aldermen [assembly], 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.

Board of [public improvements] aldermen; further power.

§ 61. [425.] The board of [public improvements] aldermen is authorized and empowered, [in its discretion,] on the application, in writing, of the head of the fire department, to grant the said department location for apparatus houses [in] for said department on any of the public property, streets or slips [under the control and care of one or more of the commissioners who constitute said board]; provided that the said houses are so located and constructed [as] that in the judgment of said [boards] board they will not disfigure or mar the appearance of the public property, streets or slips, nor interfere with the purpose of travel or public recreation, and which if placed upon any street, avenue or slip, shall not reduce the width of the same between the curbs for the purpose of travel at the place of such location to less than thirty feet on each side of said building.

CHAPTER III.

FRANCHISES AND GRANTS OF LAND UNDER WATER.

Title 1. Franchises.

Title 2. Grants of land under water.

TITLE I.

Franchises.

Inalienable rights of the city to its properties.

§ 71. The rights of the city in and to its water front, ferries, wharf property, land under water, public landings, wharves, docks, streets, avenues, parks, and all other public places are hereby declared to be inalienable.

Franchises to be granted by ordinance.

§ 72. Every grant of or relating to a franchise of any character to any person or corporation must, unless otherwise provided in this act, be by ordinance.

Limitations and conditions to grants of franchises [for use of public streets].

§ 73. After the approval of this act no franchise or right to use the streets, avenues, waters, rivers, parkways or highways of the city, shall be granted by the board of aldermen [municipal assembly] to any person or corporation for a longer period than twenty-five years, except as hereinafter provided, but such grant may at the option of the city provide for giving to the grantee the right on a fair revaluation or revaluations to renewals not exceeding in the aggregate twenty-five years. Nothing in the foregoing provisions of this section contained shall apply to consents granted to tunnel railroad corporations, and the board of aldermen [municipal assembly] is hereby authorized in its discretion to grant a franchise or right to any railroad corporation to use any of

said streets, avenues, waters, rivers, parkways or highways in The City of New York for the construction and operation of a tunnel railroad underneath the surface thereof for any period not exceeding [the period of] fifty years, and any such grant may at the option of the city provide for giving to the grantee the right, on a fair revaluation or revaluations, to renewals not exceeding in the aggregate twenty-five years, provided, however, that any grant to construct a tunnel railroad or renewal thereof, [such grant] shall only be made after an agreement has been entered into by such a tunnel corporation to pay to The City of New York at least three per centum, [or so much thereof as may be] of the net profits derived from the use of any tunnel which it shall construct, after there shall have first been retained by such company from such net profits a sum equal to five per centum upon the sum expended to construct such tunnel. At the termination of any franchise or right granted by the board of aldermen all the rights or property of the grantee in the streets, avenues, waters, rivers, parkways and highways shall cease without compensation. Every such grant of a franchise and every [any] contract made by the city in pursuance thereof may provide that upon the termination of the franchise or right granted by the board of aldermen [municipal assembly] the plant [as well as the property] of the grantee [in the streets, avenues, parkways and highways] with its appurtenances, shall thereupon be and become the property of the city without further or other compensation to the grantee; or such grant and contract may provide that upon such termination there shall be a fair valuation of the plant [and property] which shall be and become the property of the city on the termination of the contract on paying the grantee such valuation. If by virtue of the grant or contract the plant [and property are] is to become the city's without money payment therefor, the city shall have the option either to take and operate the said property on its own account, [or to renew the said grant for not exceeding twenty years upon a fair revaluation,] or to lease the same [to others] for a term not exceeding twenty years. If the original grant shall provide that the city shall make payment for the plant and property, such payment shall be at a fair valuation of the same

as property, excluding any value derived from the franchise; and if the city shall make payment for such plant **[and property]**, it shall in that event have the option either to operate the plant and property on its own account **[for at least five years, after which it may determine either to continue such operation on its own account]** or to lease the said plant and property and the right to the use of streets and public places in connection therewith for limited periods, in the same or similar manner as it leases the ferries and docks. Every grant shall make adequate provision by way of forfeiture of the grant, or otherwise, to secure efficiency of public service at reasonable rates and the maintenance of the property in good condition throughout the full term of the grant. The grant or contract shall also specify the mode of determining the valuation and revaluations therein provided for.

Proceedings prior to grant of franchise.

§ 74. Before any grant of the franchise or right to use any street, avenue, waterway, parkway or highway shall be made, the proposed specific grant embodied in the form of an ordinance with all of the terms and conditions, including the provisions as to rates, fares and charges, shall be published at least twenty days in the City Record and at least twice in two daily newspapers published in the city to be designated by the mayor at the expense of the proposed grantee. Such ordinance shall on its introduction and first reading be referred by the board of aldermen **[municipal assembly]** to the board of estimate and apportionment, who shall make inquiry as to the money value of the franchise or right **[privilege]** proposed to be granted and the adequacy of the compensation proposed to be paid therefor, and no grant thereof by the board of aldermen **[municipal assembly]** shall be made except on terms approved by vote or resolution of the board of estimate and apportionment, entered on the minutes or record of such board, and every ordinance containing or making such grant shall require the concurrence of three-fourths of all the members of the board of aldermen **[elected to each branch of the municipal assembly]** as shown by the ayes and noes there recorded and the approval of the mayor, and thirty days at least shall inter-

vene between the introduction and final passage of any such ordinance. It shall require a vote of three-fourths **[five-sixths]** of all the members of the board of aldermen **[elected to each branch of the municipal assembly]** to pass such ordinance over the mayor's veto. This act shall apply to any renewal or extension of the grant or leasing of the property to the same grantee or to others.

[Municipal assembly] Board of aldermen to pass ordinances.

§ 75. The board of aldermen **[municipal assembly]** may from time to time pass appropriate ordinances, not inconsistent with the constitution and laws of the state, to carry the provisions of this title into effect, but shall not part with the right and duty at all times to exercise in the interest of the public, full municipal superintendence, regulation and control in respect of all matters connected with such grant, and not inconsistent with the terms thereof.

City may dispose of buildings not required for public use.

§ 76. Nothing in this title contained shall prevent the city from disposing of any building or parcel of land no longer needed for public use, provided such disposition shall be approved by the sinking fund commissioners, and shall be at public sale, and be provided for by ordinance.

Acts not applicable to grants under this title.

§ 77. Section ninety-three of chapter five hundred and sixty-five of the laws of eighteen hundred and ninety and any acts amendatory thereof or supplemental thereto, shall have no application to grants made under and pursuant to this title.

TITLE 2.

GRANTS OF LANDS UNDER WATER.

Grants of lands and franchises to city in aid of commerce.

§ 83. To the end that The City of New York, as herein constituted, may be enabled to make needful provisions for the navigation, intercourse and commerce of the city and adequately to develop and secure the same now and in the future, the said city shall have the control as herein and in this act

provided, of the water front of the entire city, subject, however, to the rights of private owners of property, and also power to establish, construct, acquire, own, maintain and enjoy all ferries, public wharves, docks, piers, bulkheads, basins, slips, streets, approaches and spaces, and all other public structures, adjuncts and facilities necessary or proper for the navigation, intercourse and commerce, foreign and domestic, of the city. To these ends, in addition to all other grants, there is hereby granted in fee to the said city of New York, as herein constituted, in all the public streams, rivers, sounds, bays and waters of all descriptions at any and all places within said city or adjoining the limits of said city as herein constituted, all and singular the property, estate, right, title and interest of the people of the state of New York, in, to, of, and concerning such lands and soil covered by water, as are embraced within the projected boundary lines of any street intersecting the shore line, and which street is in public use or which may be hereafter opened for public use, extending from high-water mark out into said streams, rivers, sounds, bays and waters so far (any limits in existing grants to the contrary) as the said city shall now or at any time hereafter in the opinion of its [municipal assembly] board of aldermen or department of docks and ferries require the same for ferries, public wharves, docks, piers, bulkheads, basins, slips, or other public structures, adjuncts and facilities for navigation and commerce, including the right for such purposes to reclaim such lands from said waters, and including also all riparian rights, and all rents, issues and profits of the premises herein granted. The commissioners of the land office shall from time to time, convey or patent the lands herein granted to the city for said purposes as and whenever required by the board of docks.

Property and franchises inalienable.

§ 84. The property, franchises and rights hereby granted and the works and structures hereby authorized are not the subject of sale but shall be held by the city in perpetuity. But this shall not prevent the city from leasing the same for limited periods of time, in the same manner as it leases other like property.

U O P N

Patenting of lands under water by commissioners of the land office.

§ 86. After the approval of this act no patent of soil or land under water within The City of New York, as herein constituted, shall be made except to The City of New York or to the riparian proprietor. If the board of docks with the approval of the commissioners of the sinking fund, shall project a plan or plans for the construction of docks between street intersections as aforesaid, and desire a grant of land under water for that purpose, they shall make application therefor to the commissioners of the land office, who thereupon shall give notice to the riparian proprietor before taking action in the matter and shall make such grant to the city for the purposes specified in section eighty-three. Such grant, however, shall be subject to all the rights of the riparian proprietor, and before the city shall construct such public wharves or other structures in front of the land of such riparian proprietor, the city shall make just compensation to such proprietor for the value of all the riparian rights. If the commissioners shall make a grant to the riparian proprietor it shall be confined to soil or land under water in front of the land of such riparian proprietor. If application be made to the commissioners of the land office by the riparian proprietor for a grant of soil or land under water within The City of New York, as herein constituted, such commissioners shall give notice thereof to the board of docks of the city, which shall examine into such application and certify to the said commissioners whether in the opinion of the said board [determine whether] the granting of the same will conflict with the rights of the city under this act or be otherwise injurious to the public interests of the said city. [and shall report their conclusions to] The said commissioners [who shall] may in their discretion insert such terms and conditions in the grant as are recommended by the board of docks and as will protect the public interests of the city in respect to navigation and commerce. The validity of any such grant or patent may be judicially determined in an action brought by and in the name of the city.

Power of [municipal assembly] board of aldermen.

§ 87. The [municipal assembly] board of aldermen may from time to time pass appropriate ordinances to carry the provisions hereof into effect, not inconsistent with law or this act.

Repealing provision.

§ 88. All acts and parts of acts, so far as the same are inconsistent with this chapter are hereby repealed.

CHAPTER IV.

THE EXECUTIVE.

Mayor; executive power in and election of; salary.

§ 94. The executive power of The City of New York, as constituted by this act, shall be vested in the mayor, the presidents of the several boroughs and the officers of the several departments [department]. The mayor shall be the chief executive officer of the city; he shall be elected at the general election in the year nineteen hundred and one [eighteen hundred and ninety-seven], and every four years thereafter, and shall hold his office for the term of four years commencing at noon on the first day of January after his election. He shall be ineligible for the next term after the termination of his office. The salary of the mayor shall be fifteen thousand dollars a year.

Mayor's power of removal.

§ 95. [At any time within six months after the commencement of his term of office the] The mayor, [elected for a full term,] may, whenever in his judgment the public interests shall so require, remove from office any public officer holding office by appointment from a [the] mayor of The City of New York, except members of the board of education [and school boards], trustees of the College of The City of New York. and trustees of Bellevue and allied hospitals, and except also judicial officers for whose removal other provision is made by the constitution. No public officer shall hold his office for any specific term, except as in this act is otherwise expressly provided. [After the expiration of said period of six months, any such public officer may be removed by the mayor for cause upon charges preferred and after opportunity to be heard, subject, however, before such removal shall take effect to the approval of the governor expressed in writing.]

Administrative departments.

§ 96. There shall be the following administrative departments in said city:

Department of finance.

Law department.

Police department.

[Represented in the board of public improvements.]

[1.] Department of water supply, gas and electricity.

[2.] Department of highways.

[3.] Department of street cleaning.

[4.] Department of sewers.

[5.] Department of public buildings, lighting and supplies.

[6.] Department of bridges.

Department of parks.

[Department of buildings.]

Department of public charities.

Department of correction.

Fire department.

Department of docks and ferries.

Department of taxes and assessments.

Department of education.

Department of health.

Department of finance; comptroller.

§ 97. The head of the department of finance shall be called the comptroller of The City of New York. He shall be elected at the general election in the year eighteen hundred and ninety-seven, and every four years thereafter, and shall hold his office for the term of four years, commencing at noon on the first day of January, after his election. The comptroller may be removed from office by the governor in the same manner as sheriffs, except that the governor may direct the inquiry required 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 comptroller for a period not exceeding thirty days. In case of a vacancy in the office of comptroller, it shall be filled by the mayor, and the person appointed to fill such vacancy shall hold office until noon of the first day of January succeeding the election at which a successor shall be elected. At the next general election at which municipal officers shall be elected, which shall take place more

than thirty days after the occurrence of a vacancy in the office of comptroller, a successor shall be chosen who shall hold office for the remainder of the unexpired term.

Law department; corporation counsel.

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

Police department; police [board] commissioner.

§ 99. The head of the police department shall be called the police commissioner. [board. Said board shall consist of four members to be known as police commissioners of The City of New York, who shall, unless sooner received, respectively hold their offices for four years and until their successors shall respectively be appointed and have qualified, except that the commissioners first appointed shall, unless sooner removed, hold office for one, two, three and four years respectively, as designated by the mayor.]

[Board of public improvements and departments represented therein;] Departments of water supply, gas and electricity, street cleaning and bridges.

§ 100. [The head of the board of public improvements shall be the president of said board. He shall be appointed by the mayor, and shall, unless sooner removed, hold his office for six years and until his successor shall be appointed and has qualified.]

1. The head of the department of water supply, gas and electricity shall be called the commissioner of water supply, gas and electricity. [He shall be appointed by the mayor, and shall, unless sooner removed, hold his office for six years and until his successor shall be appointed and has qualified.]

[2. The head of the department of highways shall be called the commissioner of highways. He shall be appointed by the mayor, and shall, unless sooner removed, hold his office for six years and until his successor shall be appointed and has qualified.]

2. [3.] The head of the department of street cleaning shall be called the commissioner of street cleaning. [He shall be appointed by the mayor, and shall, unless sooner removed, hold his office for six years and until his successor shall be appointed and has qualified.]

[4. The head of the department of sewers shall be called the commissioner of sewers. He shall be appointed by the mayor, and shall, unless sooner removed, hold his office for six years and until his successor shall be appointed and has qualified.]

[5. The head of the department of public buildings, lighting, and supplies shall be called the commissioner of public buildings, lighting, and supplies. He shall be appointed by the mayor, and shall, unless sooner removed, hold his office for six years and until his successor shall be appointed and has qualified.]

3. [6.] The head of the department of bridges shall be called the commissioner of bridges. [He shall be appointed by the mayor, and shall, unless sooner removed, hold his office for six years and until his successor shall be appointed and has qualified.]

Department of parks; park board.

§ 101. The head of the department of parks shall be called the park board. Said board shall consist of three members who shall be known as commissioners of parks. [They shall be appointed by the mayor, and shall, unless sooner removed, respectively hold their offices for six years and until their successors shall respectively be appointed and have qualified, except that the commissioners first appointed shall, unless sooner removed, hold office for two, four and six years respectively, as designated by the mayor.]

Department of public charities; [board] commissioner of public charities.

§ 103. The head of the department of public charities shall be called the [board of public charities. Said board shall consist of three members to be known as] commissioner[s] of public charities. [of The City of New York. They shall be appointed by the mayor and shall, unless sooner removed, respectively hold their offices for six years, and until their

successors shall respectively be appointed and have qualified, except that the commissioners first appointed shall, unless sooner removed, hold office for two, four and six years, respectively, as designated by the mayor.】

Department of correction; commissioner of.

§ 104. The head of the department of correction shall be called the commissioner of correction. 【He shall be appointed by the mayor, and shall, unless sooner removed, hold his office for six years, and until his successor shall be appointed and has qualified.】

Fire department; the fire commissioner.

§ 105. The head of the fire department shall be called the fire commissioner. 【He shall be appointed by the mayor, and shall, unless sooner removed, hold office for six years, and until his successor shall be appointed and has qualified.】

Department of docks and ferries; board of docks.

§ 106. The head of the department of docks and ferries shall be called the board of docks. Said board shall consist of three members, who shall be known as commissioners of docks. 【and who shall, unless sooner removed, hold their respective offices for six years, and until their successors shall respectively be appointed and have qualified, except that the commissioners first appointed shall, unless sooner removed, hold office for two, four and six years, respectively, as designated by the mayor.】

Department of taxes and assessments; board of taxes and assessments.

§ 107. 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 four other members, one of whom at least shall be a person learned in the law, who shall be called commissioners of taxes and assessments. 【The president, unless sooner removed, shall hold his office for the term of six years, and until his successor shall be appointed and has qualified. The other commissioners shall, unless sooner removed, hold their respective offices for the term of four years. The commissioners first appointed under this act

shall, unless sooner removed, hold office by designation of the mayor for terms of one, two, three and four years respectively. The commissioners thereafter appointed shall, unless sooner removed, hold office for the term of four years, and until their successors shall respectively be appointed and qualified.】

Department of education.

§ 108. The head of the department of education shall be called the board of education and shall consist of forty-six members as hereinafter provided. 【Said board shall consist of nineteen members, and shall be composed as follows: Of the chairman of the school board of the boroughs of Manhattan and The Bronx, and ten other members elected by said school board; of the chairman of the school board of the borough of Brooklyn and five other members elected by said school board; and of the chairman of the school boards of the boroughs of Queens and Richmond, respectively. The members of said board of education shall hold office for one year, and until their successors shall respectively be chosen and have qualified.】

Department of health; board of health.

§ 109. The head of the department of health shall be called the board of health. Said board shall consist of the commissioner of health, the police commissioner 【president of the police board】, and the health officer of the port. 【and three officers appointed by the mayor, to be called health commissioners, two of whom shall have been practicing physicians for not less than ten years preceding their respective appointments. The health commissioner, who is not a physician, shall be the president of the board and shall be so designated in his appointment. The health commissioners shall, unless sooner removed, respectively hold their offices for six years and until their successors shall respectively be appointed and have qualified, except that the commissioners first appointed shall, unless sooner removed, hold office for two, four and six years respectively, as designated by the mayor.】

Heads of departments and borough presidents; power to purchase supplies.

§ 110. Each head of a department and each president of a borough shall have cognizance and control of the purchase of

fuel, furniture, utensils, books and other articles needed for the public offices within his department or jurisdiction. Supplies shall be furnished to heads of bureaus and all subordinate officials only upon the receipt of a written requisition signed by the head of the office in which the same are required.

Schedules of salaries to be presented when requested.

§ III. It shall be the duty of each borough president and the head of each department to present new schedules of salaries for his office or department to the board of estimate and apportionment, whenever requested by said board so to do.

CHAPTER V.

THE MAYOR.

Mayor; duties of.

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

1. To communicate to the board of aldermen [municipal assembly], at least once in each year, a general statement of the finances, government and improvements of the city.

2. To recommend to the board of aldermen [municipal assembly] 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 city, and laws of the state to be executed and enforced, and for that purpose he may call together for consultation and co-operation any or all of the heads of departments.

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

Id.; a magistrate.

§ 116. The mayor is a magistrate.

Id.; may appoint clerks, etc.

§ 117. 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 [municipal assembly] 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 appropriated therefor.

Id.; to appoint heads of departments [terms of latter].

§ 118. The mayor shall appoint the heads of departments and all commissioners, except as otherwise provided in this act. He shall also 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 a commissioner of jurors for the boroughs of Manhattan and the Bronx, inspectors of weights and measures, and as many sealers of weights and measures as may by ordinance be prescribed, 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 shall, subject to the power of removal herein provided, hold his office for such term as is provided by this act, or otherwise, and in each case until a person is duly appointed, and has qualified, in his place. [The terms of office of all such heads of departments and persons, shall, as to those first appointed, commence at noon on the first day of January, eighteen hundred and ninety-eight, and thereafter at noon on the first day of January in the year in which the terms of office of their predecessors expire, except that 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.]

Id.; to appoint commissioners of accounts.

§ 119. The mayor shall appoint and remove at pleasure two persons who shall be commissioners of accounts, one of whom shall be a certified public accountant. It shall be their duty, once in three months, to make an examination of the receipts and disbursements in the offices of the comptroller and chamberlain, in connection with those of all the departments and officers making returns thereto, and report to the mayor a detailed and classified statement of the financial condition of the city as shown by such examinations. They shall also make such special examinations of the accounts and methods of the departments and offices of the city and of the counties of New York, Richmond, Queens and Kings, as the mayor may from time to time direct, and such other examinations as

the said commissioners may deem for the best interests of the city, and report to the mayor and the board of aldermen **[municipal assembly]** the results thereof. For the purpose of ascertaining facts in connection with these examinations they shall have full power to compel the attendance of witnesses, to administer oaths and to examine such persons as they may deem necessary. Such commissioners shall each be paid the sum of five thousand dollars a year. The board of estimate and apportionment and the board of aldermen **[municipal assembly]** shall annually appropriate a sum sufficient to pay the salaries of said commissioners, and in the discretion of said board and the board of aldermen **[municipal assembly]** a sum sufficient to enable them to employ the necessary assistance to carry out the provisions of this **[act]** section.

Id.; proclamation as to holding court in case of pestilence, etc.

§ 120. The mayor, or, in case of his absence, or other disability, the president of the board of aldermen **[council]**, by proclamation, may direct that the next ensuing term of any court, other than the court of appeals, appointed to be held in the 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 be selected. The proclamation must be published in two or more daily newspapers, published in The City of New York.

Id.; police power as to pawnbrokers.

§ 121. The mayor shall possess the power conferred upon the chief, deputy chiefs, inspectors and captains of police by section three hundred and seventeen of this act.

Id.; removal by governor.

§ 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 the charges have been received by

the governor, he may, pending the investigation, suspend the mayor for a period not exceeding thirty days.

Municipal civil service; mayor to appoint commissioners.

§ 123. The mayor shall appoint three or more suitable persons, not more than two-thirds of whom shall be members of the same political party, who shall, in the manner defined by chapter three of the general laws, commonly known as the civil service law, and subject to and in pursuance of the provisions of that law and of such amendments as may from time to time be made to it, prescribe, amend and enforce rules for the classification of the offices, places and employments in the public service of the city, and for appointments and promotions therein, and examinations therefor, and for the registration and selection of laborers for employment therein. Such persons shall constitute the municipal civil service commission, and, within the amount appropriated therefor, they shall have authority to appoint a secretary, examiners, and such other subordinates as may be necessary. Proper provision shall be made in the annual budget for all the expenses of the municipal civil service commission.

[The mayor shall appoint three or more suitable persons as commissioners to prescribe and amend, subject to his approval, and to enforce regulations for appointment to, and promotions in, the civil service thereof, and for classifications and examinations therein, and for the registration and selection of laborers for employment therein, in pursuance of the constitution of this state. Said commissioners shall receive no compensation.**]**

Regulations of municipal civil service.

§ 124. All appointments, promotions and changes of status of persons in the public service of The City of New York shall be made in the manner prescribed by the constitution of the state and in accordance with the provisions of chapter three of the general laws, commonly known as the civil service law, and such amendments as may be made thereto, and the pro-

visions of this act. [Such regulations shall, among other things, provide:

1. For the classification of the offices, places and employments in the civil service of the said city.

2. For examinations, wherever practicable, to ascertain the fitness of applicants for appointment to the civil service of said city. All examinations shall be public. No question in any examination under the rules established as aforesaid shall relate to political or religious opinions or affiliations, and no appointment or selection to or removal from an office or employment within the scope of the rules established as aforesaid, shall be in any manner affected or influenced by such opinions or affiliations. Such examinations shall be practical in their character, and shall relate to those matters which will fairly test the relative capacity and fitness of the persons examined to discharge the duties of the position to which they seek to be appointed. Such examinations, save in the case of applicants for employment as laborers, shall be open, competitive examinations, except where, after due efforts by previous public advertisement or other effort in case of extraordinary emergency, competition is found not to be practicable. The examination of applicants for employment as laborers shall relate to their capacity for labor, their habits as to industry and sobriety, and the number of persons dependent upon them for support.

3. For the filling of vacancies in the offices, places and employments in the public service which are subject to competitive examination by selection from among those graded highest as the result of such examination, provided, however, that soldiers and sailors honorably discharged from the army and navy of the United States in the late civil war, who are citizens and residents of this state, shall be entitled to preference in appointment and promotion from any list from which an appointment or promotion is to be made, without regard to their standing on such list.

4. For a period of probation before an appointment or employment is made permanent.

5. For promotions in office on the basis of ascertained merit and seniority in service, and upon such examination as may be for the good of the public service.]

Authority and duty of commissioners of municipal civil service.

§ 125. The municipal civil service commission shall have the power to make investigations concerning all matters touching the enforcement and effect of the provisions of the civil service law, in so far as it applies to The City of New York, and the rules and regulations prescribed thereunder, or concerning the action of any examiner or subordinate of the commission, or of any person in the classified municipal service, in respect to the execution of that act, and in the course of such investigations each commissioner and the secretary shall have the power to administer oaths. The municipal civil service commission shall have the further power to subpœna and require the attendance of witnesses, and the production thereby of books and papers pertinent to the investigations and inquiries hereby authorized, and to examine them, and such public records as it shall require in relation to any matter which it is required to investigate. For this purpose the commission shall possess all the powers conferred by the code of civil procedure upon a board or committee, and may invoke the power of any court of record in the state to compel the attendance and testifying of witnesses or the production thereby of books and papers as aforesaid. [The persons so appointed or employed shall be known as municipal civil service commissioners, and within the amount appropriated therefor, they shall have authority to employ a secretary, examiners, and such other subordinates as may be necessary. It shall be the duty of such persons to make reports from time to time to the state civil service commission, whenever said commission may request, of the manner in which the civil service law, and the rules and regulations thereunder, have been and are administered, and the results of their administration in such city, and of such other matters as said commission may require, and annually on or before the tenth day of January in each year to make such a report to said commission; and it shall be the duty of said state commission in its annual report to set out either these reports, or a sufficient abstract or summary thereof, to give full and clear information as to their contents. It shall be the duty

of all persons in the official service of the city to conform to and comply with said rules and regulations and any modifications thereof made pursuant to the authority of this section or said rules and regulations, and to aid and facilitate in all reasonable and proper ways the enforcement of said rules and regulations and any modifications thereof, and the holding of all examinations which may be required under the authority of this section or said rules and regulations. Until the appointment of a municipal civil service commission under this act in said city, the municipal civil service commissioners now in existence in any part of the territory of said city shall continue in office, and the civil service rules now in force therein shall continue to be in force until the adoption of new rules hereunder. The authority by this section conferred shall not be so exercised as to take from any policeman or fireman any right or benefit now conferred by law or by this act, or existing under any lawful regulation of the department in which he serves. Proper provision shall be made in the annual budget for all the expenses of the municipal civil service commissioners.]

Warrants for payment of salary of person whose appointment has not been made under civil service law, prohibited.

§ 126. Any officer of said city whose duty it is to sign or countersign warrants, shall not draw, sign or issue, or authorize the drawing, signing or issuing of any warrant on the chamberlain or other disbursing officer of the city for the payment of salary to any person in its service whose appointment or retention has not been [made in pursuance of this chapter and the rules in force thereunder, provided, however, that this section shall not apply to persons now in office who are by this act continued in office, or transferred in service.] in accordance with the civil service law and its amendments and of the valid rules in force thereunder.

Veterans in municipal service.

§ 127. All veterans either of the army or navy or the volunteer fire departments, now in the service of either of the municipal and public corporations hereby consolidated, who are now entitled by law to serve during good behavior, or who can not under existing law be removed except for cause, shall

be retained in like positions and under the same conditions by the corporation constituted by this act, to serve under such titles and in such way as the head of the appropriate department or the mayor may direct.

Bureau of municipal statistics and records.

§ 128. There shall be a bureau of municipal statistics and records of The City of New York [for the purpose of collecting, keeping and publishing, as hereinafter or otherwise prescribed by law, such statistical data relating to the city, as shall be deemed of utility or interest to the city government or its citizens.]

Bureau; how constituted.

§ 129. The bureau of municipal statistics and records shall consist of a commissioner [chief of the bureau] of statistics and records [of a municipal and statistical commission], and of such assistants [to the chief of the bureau] as may be found necessary for properly carrying on the work of the bureau.

[Chief of bureau] Commissioner of statistics and records to be appointed by the mayor.

§ 130. The commissioner of statistics and records [chief of the bureau of municipal statistics] shall be appointed by the mayor [for a term of four years, and shall, unless sooner removed, hold office until his successor shall be appointed and has duly qualified. He shall be ex-officio a member and the chairman of the municipal statistical commission].

Compensation of [chief of bureau] commissioner of statistics and records [and his assistants and of the commission].

§ 134. The commissioner of statistics and records [chief of the bureau of municipal statistics] shall receive an annual salary of three thousand five hundred dollars. [He shall appoint his assistants and shall fix their salaries with the approval of the board of estimate and apportionment. The members of the municipal statistical commission shall receive no compensation.]

Power and duties of the [commission] commissioner in relation to the collection and publication of statistics.

§ 135. [The municipal statistical commission shall make such rules and by-laws as may be necessary for the regulation of the bureau of municipal statistics not in conflict with this act, or with any law of this state or of the United States, and shall direct the general work of the bureau of municipal statistics.] The commissioner [commission] shall devise and carry out plans for the collection and publication of such statistical data relating to the city as shall be deemed of utility or interest to the officials and citizens of the city [it may deem advisable to publish]. The head of each department of the city shall, upon a request from the commissioner [commission] made through the mayor, and approved by him, transmit to the commissioner [chief of the bureau of municipal statistics] for his use [by the commission], upon such blanks as may be provided, or in such other manner as may be deemed convenient by the commissioner [commission], such statistical data relating to the work of such department as the commissioner [commission] may call for. The commissioner of statistics and records shall publish annually, with the approval of the board of estimate and apportionment, a volume to be known as the "Municipal Statistics of The City of New York for the year * * *." In this volume the commissioner shall publish in so far as he may deem advisable, the results attending the work of the various departments of the city government for the preceding calendar year, and such other statistical information and facts relating to The City of New York or its inhabitants as he may deem of general public interest. Such publication shall contain statistics relating to population and births, marriages and deaths; to streets, pavements, sewers, markets, docks, parks, buildings, fires, water supply and sanitary condition of the city; to the administration of charities and corrections, of the police department, of the various branches of the judiciary and the criminal courts of the city; to the work of the department of education, the number of children of school age and those attending school;

to municipal revenues and expenditures, the administration of the various city departments having charge of the expenditure of public moneys, the collection of taxes and the management of the city debt; and also a general statement of the legislative enactments relating to the government of The City of New York.

Powers and duties of the commissioner in relation to the collection and preservation of records.

§ 136. It shall be the duty of the commissioner of statistics and records to collect, preserve and make properly accessible the manuscript records of The City of New York. By these are meant all journals, minute books, maps and plans, files of papers, parchments and documents of public character which relate to the history of The City of New York, and to all departments of the same, since its incorporation as a municipality; also the records, similarly defined, of all the cities, towns and villages which at any time have been annexed to or consolidated with The City of New York and which are now extinct jurisdictions. He shall have the authority and it shall be his duty to recover such of these records as may be in private hands and to institute search for such as appear to be lost; also to procure from the city clerk and from the heads of city departments, or other officials, the records now in their custody which fall within the meaning of this clause. But no official or head of department shall be required to surrender to said commissioner any book, document or paper which is less than twenty years old, or which he shall certify to be necessary for the transaction of current business in his office. Of the books, papers and documents thus accumulated the commissioner of statistics and records shall be the sole and lawful custodian. It shall be the duty of the commissioner to preserve the said records in adequate, fireproof rooms, provided and furnished at the expense of the city, and located as near as may be to the repository of the records of the county of New York. Such records shall be kept in such manner and

under such regulations that they may at all proper times be accessible to those who desire to consult them. He shall cause proper shelves, cases and files to be provided for them, and shall, as may be needed, cause them to be bound, copied, arranged and indexed.

Limitation of expense of maintaining the bureau of [municipal] statistics and records.

§ [138.] 137. The expense of such publications and all other expenses of the bureau of [municipal] statistics and records, shall be included in the annual budget. The total expense of maintaining the bureau of [municipal] statistics and records, including salaries, shall not exceed in any one year the sum of fifteen [ten] thousand dollars, unless otherwise provided by the board of estimate and apportionment and the board of aldermen. [municipal assembly.]

CHAPTER VI.

DEPARTMENT OF FINANCE.

- Title 1. The comptroller.
- Title 2. The bonds and obligations of the city.
- Title 3. The chamberlain.
- Title 4. The sinking funds.
- Title 5. Appropriations and the board of estimate and apportionment.
- Title 6. Levying taxes.

TITLE I.

The Comptroller.

General duties; settlement of claims; assent to certain contracts required; election; salary.

§ 149. The [finance] department of finance 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 for any cause whatever, 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. Willful false swearing before him is per-

jury, 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. No claim against the city or against any of the counties contained within its territorial limits, or payable in the first instance from moneys in the city treasury for services rendered or work done or materials or supplies furnished except (1) claims reduced to judgment, or (2) awards, costs, charges and expenses duly taxed or ordered paid in judicial proceedings, or (3) claims arising under the provisions of contracts made at public letting in the manner provided by section four hundred and nineteen of this act, or (4) claims settled and adjusted by the comptroller, pursuant to the authority of this section, shall be paid unless an auditor of accounts shall certify that the charges therefor are just and reasonable; and, except as hereinabove otherwise provided, all contracts with the city or any of such counties or with any public officer acting in its or their behalf, shall be subject to such audit and revision by the department of finance. 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. If in any action at law against The City of New York to recover upon a claim not embraced within the exceptions hereinabove numerically specified, the amount claimed by the plaintiff is in excess of the amount as audited and settled by the department of finance, the plaintiff must establish his claim by competent evidence of value, and no testimony shall be admitted to show a promise or agreement by any officer or employee of the city or of any of the counties contained within its territorial limits, to pay any larger sum

than the amount so audited or allowed by the department of finance. 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 or in part, to be paid by assessments upon the property benefited, shall be binding or of any force, unless the comptroller shall indorse thereon his certificate that there remains unexpended and unapplied, as herein provided, a balance of the appropriation or fund 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, unless the same is required by law to be done by contract at public letting. 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 or fund in any action. The comptroller shall furnish to each head of department, **[weekly]** monthly, a statement of the unexpended balances of the appropriation for his department. Wages and salaries, except as otherwise provided in this act, 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, foreman or other officer designated for the purpose. The comptroller shall enter into, upon behalf of The City of New York, any lease authorized by the commissioners of the sinking fund of property leased to the city. The assent of the comptroller shall be necessary to all agreements hereafter entered into by any city officer, board, commission or department for the acquisition by purchase of any real estate or easement therein, when such an agreement involves an obligation to pay or an expenditure of any money on behalf of the city, and in any proceedings that may hereafter be had to acquire real estate or heredita-

ments for or on behalf of the corporation of The City of New York, before an award shall be confirmed, imposing an obligation upon the city to pay any moneys, the comptroller shall have thirty days' notice in writing, stating before whom and at what time such proceeding will take place; but nothing hereinbefore contained shall affect the board of rapid transit railroad commissioners existing under chapter four of the laws of eighteen hundred and ninety-one as amended. The comptroller of The City of New York shall be elected and [shall] hold office as provided in this act, and [he] shall receive an annual salary of [ten] fifteen thousand dollars, and shall account to and pay into the city treasury all fees and emoluments to which he may be entitled under the general tax law of the state of New York and all other statutes whether general or special.

Comptroller to appoint two deputy comptrollers.

§ 150. The comptroller shall appoint, and for cause to be stated in the City Record, at pleasure remove, two deputy comptrollers. The said deputy comptrollers shall, in addition to their other powers, possess any or every power and perform any or every duty belonging to the office of comptroller, whenever the said comptroller shall, 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 comptrollers or either of them to possess such powers and perform such duties, and such designation and authority shall be duly filed in and remain of record in the department of finance and in the mayor's office. The said deputy comptrollers 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 from the comptroller or the mayor, may at any time be terminated in the same manner as it was created.

Bureaus of the [finance] department of finance.

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

I. A bureau for the collection of revenue accruing from rents and interests on bonds and mortgages, and revenue aris-

ing from the use or sale of property belonging to or managed by the city, and the management of the markets, the stalls or stands in which shall be rented on permits, to be issued by the comptroller, all of such permits heretofore or to be hereafter issued to be revocable by the comptroller for good and sufficient cause, and not otherwise, which shall be known as the bureau for the collection of city revenue and of markets. The chief officer of such bureau shall be called the collector of city revenue and the superintendent of markets. It shall be lawful for such bureau, under the direction of the comptroller, to collect rental for the temporary use and occupation of property acquired by the city for public purposes between the time of the acquisition thereof and the time when the same can be actually utilized for the purposes for which it was acquired, and of property which, having been originally acquired for public purposes, has ceased to be used for such purposes.

2. A bureau for the collection of taxes, the chief officer of which shall be called, the receiver of taxes. He shall receive a salary at the rate of five thousand dollars per annum.

3. A bureau for the collection of assessments, and of such taxes, assessments and water rents as are in arrears, the chief officer of which shall be called the collector of assessments and arrears. He shall receive a salary at the rate of four thousand dollars per annum.

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 the chief officers whereof shall be called auditors of accounts, to be appointed or removed, as shall be also deputy auditors, at the pleasure of the comptroller. [The number of said auditors and deputy auditors, as well as their salaries, shall be such as the comptroller shall from time to time fix and determine.] During the absence of either or any or all of said auditors of accounts, from illness or other cause, said deputy auditors or any or either of them shall, when and to the extent he or they may be authorized so to do in writing by the comptroller, perform the duties and exercise the powers of either or of any or of all of the said auditors of accounts. The said auditing bureau shall keep an account of each claim for and against the corporation, and of the sums allowed upon each, and certify

the same to the comptroller, with the reasons for the allowance. The comptroller may detail any of such auditors and deputy auditors as he may deem proper to the borough hall of the borough of Brooklyn, to the borough hall of the borough of The Bronx, to the borough hall of the borough of Queens and to the borough hall of the borough of Richmond, in addition to such as may be in the chief office of the comptroller in the borough of Manhattan. All such accounts arising from local improvements within the borough of Brooklyn may be audited, revised and settled by the auditor or the auditors of accounts so detailed as aforesaid by the comptroller in the borough hall of the borough of Brooklyn. All such accounts arising from local improvements within the borough of Queens may be audited, revised and settled by the auditor or auditors of accounts so detailed as aforesaid by the comptroller in the borough hall of the borough of Queens. All such accounts arising from local improvements within the borough of Richmond may be audited, revised and settled by the auditor or auditors of accounts so detailed as aforesaid by the comptroller in the borough hall of the borough of Richmond. And all such accounts arising from local improvements within the boroughs of Manhattan and The Bronx may be audited, revised and settled by any of the auditors of accounts in the chief office of the comptroller in the borough of Manhattan, or, so far as the borough of The Bronx is concerned, in the office to be located in the borough hall of the borough of The Bronx, and the auditors of accounts may have such clerks and assistants, examiners, engineers, inspectors and employees as the comptroller may deem necessary and proper, to be appointed by the comptroller. [The number of said appointees, and their salaries, shall be fixed and determined from time to time by the comptroller.]

5. A bureau for the reception and safe keeping 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.

Appointment and bond of receiver of taxes and collector of assessments and arrears.

§ 152. The comptroller shall appoint the receiver of taxes and the collector of assessments and arrears. The receiver of

taxes and the collector of assessments and arrears, before entering upon the duties of their offices, shall each enter into a bond to The City of New York, to be approved by the chamberlain and comptroller in the penal sum of twenty-five thousand dollars, which bond shall be conditioned for the faithful performance of the duties of the office by the officer giving such bond. Every such bond shall be a lien on all the real estate held jointly and severally by the said receiver or the said collector executing the same, as the case may be, or any surety thereto, within any of the counties embraced in The City of New York at the time of the filing thereof, unless there be named and described in or on any such bond, real estate in one or more of such counties equal in value to the amount of said bond and owned by a surety, 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 or collector, as the case may be, and no other, and shall continue to be such lien until 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 the officer who has given such bond,] time when the officer who has given such bond shall have ceased to hold his office, unless an action thereon has been commenced and shall then be pending.

Renewal of bond.

§ 153. If at any time during the continuance in office of the said receiver of taxes or of any of the deputy receivers of taxes or of the collector of assessments and arrears or of any of the deputy collectors of assessments and arrears the comptroller shall deem any surety of them or either of them to be insufficient, he may require the said receiver or any deputy receiver, or collector or any deputy collector to enter into a new bond to be approved in like manner as herein prescribed, within such time as said comptroller 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 any such officer to furnish such bond within the time so directed, the comptroller may declare his office vacant.

Accounts of receiver and collector and their deputies to be examined.

§ 154. [Upon the expiration of the term of office of the] Whenever a receiver of taxes or [of] any deputy receiver or [of the] a collector of assessments and arrears or [of] any deputy collector shall cease to hold office, and within one year thereafter, it shall be the duty of the comptroller to examine the accounts of such receiver or collector 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. And if at any time during his continuance in office any such receiver, collector, or deputy receiver, or deputy collector shall execute and file with the comptroller a new bond in the same form and penalty and approved as provided in section one hundred and fifty-two, it shall be the duty of the comptroller to examine and adjust the accounts of such receiver or collector or deputy, to the date of such filing, and, if found correct, to cause a certificate to that effect to be filed with the bond or bonds previously filed by such officer, and such certificate so filed shall be the full discharge and satisfaction of the condition of such prior bond or bonds and of the lien or liens thereby created.

Receiver of taxes and collector of assessments and arrears; where to keep offices.

§ 155. The receiver of taxes and the collector of assessments and arrears shall each have his chief office in the borough of Manhattan at such places as shall be, from time to time, by ordinance of the [municipal assembly] board of aldermen designated for that purpose. Each of them shall also have an office in the borough of Brooklyn, in the borough of The Bronx, in the borough of Queens and in the borough of Richmond, at such places in said boroughs as shall be designated by the [municipal assembly] comptroller.

Receivers of taxes and collector of assessments and arrears may appoint deputies.

§ 156. The receiver of taxes and the collector of assessments and arrears may each appoint the requisite number of deputy tax receivers and of deputy collectors of assessments and arrears respectively. Each of them shall take from each deputy

so appointed by him a bond, in such penal sum and with such sureties as may be approved by him and by the comptroller and chamberlain, which bond shall run to the receiver or the collector, as the case may be, The City of New York and to whom it may concern, and shall be conditioned for the faithful performance of the duties of such deputy. The receiver of taxes, and his sureties, shall be liable for the acts and defaults of the deputy receivers so appointed and the collector of assessments and arrears, and his sureties, shall be liable for the acts and defaults of the deputy collectors. Each bond taken in pursuance of the provisions of this section shall be filed with the comptroller. Each deputy receiver of taxes shall have all the powers and be subject to all the duties of the receiver of taxes in respect to the collection and receipt of taxes, and each deputy collector of assessments and arrears shall have all the powers and be subject to all the duties of the collector of assessments and arrears in respect to the collection of assessments and arrears. [The deputy receiver of taxes and deputy collectors of assessments and arrears shall receive annual salaries to be fixed by the comptroller in his discretion, within the limits of the appropriation made therefor.]

Where taxes, assessments and arrears are due and payable.

§ 157. Taxes, assessments and arrears due upon property within the borough of Manhattan, shall be payable and receivable at the main offices of the receiver of taxes and of the collector of assessments and arrears, respectively, in said borough. Taxes, assessments and arrears due upon property situated in every other borough shall be payable at the offices of said receiver of taxes or collector of assessments and arrears, respectively, in the borough in which said property is situated.

Bond of receiver and collector to be filed.

§ 158. The bonds given by the receiver of taxes and the collector of assessments and arrears as hereinbefore provided shall be filed and remain in the office of the comptroller, and true copies thereof, certified by the comptroller, shall be filed in the office of the clerk of each of the counties [wholly or partly] embraced within The City of New York and shall be public records. In case a certificate of the adjustment of the accounts of any receiver or collector be made as hereinbefore

provided, a true copy thereof, certified by the comptroller, shall be filed in each of the offices in which a copy of the bond of said receiver or collector shall have been filed.

Assessment lists to be filed.

§ 159. There shall be kept in the office of the [comptroller] collector of assessments and arrears a full and complete record, in detail, of all lists of assessments confirmed, whether by the supreme court or the board of revision or the board of assessors, with the date of confirmation and the date of entry under such record, which record shall be open to inspection during office hours, and the same shall be received as presumptive evidence of the facts therein contained. An assessment shall become a lien upon the real estate affected thereby [immediately upon] ten days after its entry in the said record. If any such assessment list affects property situated in any borough, other than the borough of Manhattan, a copy of such list shall forthwith be transmitted to and filed in the office of the collector of assessments and arrears in the borough in which is situated the property so affected.

Comptroller to appoint clerks and assistants.

§ 160. The comptroller shall appoint as many clerks and assistants to the receiver of taxes and the collector of assessments and arrears as may be necessary, and shall designate the boroughs in which they shall respectively perform their duties. [, and shall, within the limits of the appropriation therefor, fix their salaries.]

Publication of financial statement.

§ 161. It shall be the duty of the comptroller to publish in the City Record [and corporation newspapers, two months before the election of municipal officers] within two months after the close of each calendar year, a full and detailed statement of the receipts and the expenditures of the corporation during the [two years ending on the first day of the month in which said publication is made] preceding year 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 money 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.

Application of certain moneys.

§ 162. It shall be lawful for the comptroller to apply the moneys accruing for interest on the sales of lands in said city for unpaid taxes, assessments and water rents, or so much thereof as shall be required, to the account or fund designated "lands purchased for taxes and assessments," such moneys to be used for purchases by the corporation at such sales.

Dedication of certain lands for markets.

§ 163. The lands in the ninth ward of that part of the corporation heretofore known as the mayor, aldermen and commonalty of the city of New York, 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, being a portion of the lands heretofore set apart by law for use as a market place, are hereby dedicated to market purposes, and shall be used and occupied as such in the manner that may be designated and prescribed by the commissioners of the sinking fund, who shall have full power and authority in respect thereto. Said commissioners of the sinking fund may, in their discretion lease said lands to be used for public market purposes for such term of years, with such covenants, and for such annual rentals, as in their judgment shall be for the best interests of the city, or may prepare the same for use as a public market. The block of ground in said ward bounded on the north by Little Twelfth street, on the south by Gansevoort street, on the east by Washington street, and on the west by West street and Tenth avenue, is hereby declared to be a public market place, and subject to the provisions of section two hundred and five of this act, shall be kept for the exclusive use of farmers and market gardeners. Any farmer or market gardener desiring to use such market, or the market in the borough of Brooklyn known as the Wallabout farmers' market, may present to the department of finance an affidavit, stating his name, residence, occupation and a general

description of the commodities which he desires to sell in any such market, together with a request that a license be issued to him to use the same. On the filing of such affidavit and the payment of a nominal fee sufficient to defray the cost of issuing said license the department of finance, if satisfied that such applicant is a proper person, shall issue to him a license to use such market for a period not to exceed one year. Such licenses shall be numbered, and registered in the department of finance, and the department of finance shall issue to such licensee a metallic tag or plate, with the number of such license thereon. Such tag or plate shall be of convenient form and suitable design, approved by the department of finance. No person shall be permitted to use any such market except he be a holder of one of said licenses and while using such market shall at all times cause to be conspicuously displayed the tag or plate containing the number of his license. The department of finance shall have sole charge and control of [said] any such public market place and of the wagons employed 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 said business shall be conducted, and the general management of the same.

Comptroller's powers in Wallabout market.

§ 164. The department of finance of The City of New York shall have sole charge and control of the Wallabout market lands in the borough of Brooklyn and of the wagons employed in the business of selling farm and garden produce in and about said Wallabout market, and shall have power to make suitable regulations concerning fees, the hours during which the said business shall be conducted and the general management of the same. The portion of the said market commonly known as "farmers' square" shall be kept for the exclusive use of farmers and market gardeners. The comptroller shall have and be vested with all the powers exercised by the commissioner of city works of the former city of

Brooklyn, and shall have the sole power to lease any portion of the said market lands and renew existing leases on such terms and at such rentals as may be agreed upon between him and the lessees or holders, subject to the following provisions as to the rate of rent. In case the amount of rent for any renewal term of any lease be not agreed upon as aforesaid by the first day of January preceding the expiration of the previous term the same shall, if either the comptroller or the lessee or holder shall so elect, be fixed as now provided by law except that the rent may, in the discretion of the comptroller, be reduced. The rents for such renewal terms whether agreed upon as above provided, or fixed as now provided by law shall not be less than an amount equal to two-thirds of the rent of the preceding term, nor exceed an amount equal to the rent of the preceding term and one-third thereof in addition thereto. The comptroller may at any time, with the consent of the lessee or holder, vary or modify any of the provisions of any lease of such lands. The comptroller may also adjust and settle any claims and controversies in regard to rents and other matters that appertain to any lease both those which have heretofore arisen and any which may hereafter arise during either the original term or any renewal or extension thereof as in his opinion justice may require. Renewals of existing leases shall be made according to the provisions thereof, unless, within thirty days after the passage of this amendment, written notice be given to the said comptroller by the lessee or holder of his election that the said lease and renewals thereof be subject to the provisions of this section. The comptroller may in his discretion allow such notice to be given after the expiration of such thirty days, but nothing herein contained shall interfere with the jurisdiction of the department of docks and ferries of The City of New York over the piers, bulkheads and water front in and around said Wallabout market lands, nor with the jurisdiction of the president of the borough of Brooklyn over said Wallabout market lands, so far as concerns his powers over highways.

TITLE 2.

*The Bonds and Obligations of the City.***Corporate stock of The City of New York; how issued; provisions as to bonded indebtedness.**

§ 169. All bonds issued by The City of New York on and after January first, eighteen hundred and ninety-eight, in pursuance of laws already passed or which may hereafter be passed, or in pursuance of the provisions of this act, excepting assessment bonds and revenue bonds, shall be known as "corporate stock of The City of New York." For the redemption and payment of said corporate stock and the interest thereon, the faith and credit of The City of New York shall be and is hereby pledged. Such corporate stock shall be in such form as may be designated by the 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 City of New York, and attested by the city clerk. Such corporate stock shall be in coupon form in sums not less than five hundred dollars each share, or shall be registered, and shall be conditioned to be paid in gold coin, or in the legal currency of the United States, at the option of the commissioners of the sinking fund and shall be made redeemable at a period of not less than ten, nor more than fifty years from the date thereof; [provided, however, that such stock when issued to provide for the supply of water shall always be issued in the manner provided by section ten of article eight, of the constitution of the state of New York.] Such corporate stock and all assessment bonds and revenue bonds, as well as all bonds hereafter to be issued by The City of New York by virtue of this act or of any other act, whether general or special, shall be free and exempt from all taxation, except for state purposes. The interest on such corporate stock and on all other bonds of the corporation, except revenue bonds, shall not exceed four per centum per annum, and shall be made payable quarterly, or semi-annually, in The City of New York, or at such other place as may be fixed by the said comptroller at the time of issue of said stock or bonds; provided, however, that the interest on revenue bonds, issued in anticipation of the collection of taxes may be made payable at the date of the maturity thereof. [Corporate stock of The City of New York, issued in pursuance of laws already passed or

which may be hereafter passed, or in pursuance of the provisions of this act, shall be, unless otherwise provided by this act, issued by the comptroller only to the extent to which he may be thereunto authorized by resolution of the municipal assembly and the board of estimate and apportionment adopted by vote as provided for in this act.】
Such corporate stock may be authorized to be issued by the board of estimate and apportionment without the concurrence or approval of any other board or public body for the following purposes and within the following limitations: 1. For the purposes specified in section one hundred and seventy of this act; 2. For the purposes specified in section one hundred and seventy-four of this act; 3. For the purposes specified in section one hundred and seventy-six of this act; 4. For the purposes specified in section one hundred and eighty-four of this act; 5. For the purposes specified in section two hundred and thirty-five of this act; 6. For the purposes specified in section four hundred and twenty-two of this act; 7. For the purposes specified in section one hundred and seventy-eight of this act, to an amount not exceeding two million dollars in any one calendar year; 8. To pay the awards, costs, charges and expenses of acquiring title to lands required for public purposes and which have been or may hereafter be authorized by or pursuant to law; 9. For constructing and equipping school buildings and acquiring sites therefor to an amount not exceeding three million five hundred thousand dollars in any one calendar year; 10. For the repaving of streets to an amount not exceeding two million dollars in any one calendar year; 11. For the improvement of parks, parkways and drives to an amount not exceeding five hundred thousand dollars in any one calendar year. Corporate stock to be issued for purposes other than those hereinbefore in this section specifically enumerated, or for such purposes in excess of the amounts therein specified, shall be authorized by the board of aldermen with the approval of the

board of estimate and apportionment as provided by section forty-seven of this act; provided, however, that wherever by existing provisions of law, [or by the provisions of this act,] the commissioners of the sinking fund may be specifically authorized to provide for the issue of stocks or bonds, said authorization of the comptroller shall be made by said commissioners instead of [the said municipal assembly and] said board of estimate and apportionment, [and provided, further, that whenever the amount of stocks or bonds required to be issued in pursuance of any law for any one purpose in any year shall not exceed the sum of one hundred thousand dollars, the comptroller may issue such bonds when thereunto authorized by the vote of a majority of the board of estimate and apportionment]; and that nothing in this section contained shall affect the provisions of sections one hundred and eighty and two hundred and thirteen of this act.

Issue of stock or bonds by The City of New York to take the place of bonds authorized to be issued by laws enacted prior to January 1, 1898.

§ 170. Whenever, and to the extent to which, it may be lawful for the municipal or public corporations or parts thereof, including the counties of Kings and Richmond, which by this act are made part of the corporation of The City of New York, to issue for public purposes bonds pursuant to laws enacted prior to January first, eighteen hundred and ninety-eight, it shall be lawful for The City of New York, as hereby constituted, to issue corporate stock as herein provided for the same purposes; provided, however, that the amount so to be issued shall not in any one case exceed the balance remaining unissued of the amount limited to be issued pursuant to the authority of said laws. In similar instances assessment bonds and revenue bonds of The City of New York, as hereby constituted, may likewise be so issued, subject to the same limitations as to the amount thereof.

Bonds to be issued in sums of ten dollars or any multiple thereof.

§ 171. Whenever it shall be lawful to issue any bonds of The City of New York, as constituted by this act, the same, when issued in registered form, may be issued in denomina-

tions of ten dollars or any multiple thereof. Preference shall, as far as practicable, and without pecuniary disadvantage to the said city of New York, be given to applicants for the smallest amounts and smallest denominations of said bonds in issuing the same.

Registration of stocks and bonds.

§ 172. All stocks and bonds heretofore lawfully issued by any of the municipal or public corporations or parts thereof, which have heretofore been annexed to or consolidated with the corporation known as the mayor, aldermen and commonalty of the city of New York, or which by this act are made part of the corporation of The City of New York, as hereby constituted, including the counties of Kings and Richmond, for the payment of the principal and interest of which The City of New York is liable, may be registered and must be recorded 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 in said office, and subject to such reasonable rules and regulations as the comptroller may prescribe; such registry and transfer to be indorsed thereon by the comptroller. Whenever such stocks or bonds have been issued in coupon form, and whenever hereafter corporate stock of The City of New York may be so issued, it shall be the privilege of the holders thereof at any time, subject to such rules and regulations to convert the same into registered stock or bonds, and the comptroller is hereby authorized to issue registered stock or bonds therefor in the manner and form in which the same would have been conditioned if originally issued in registered form. The interest on all such stocks and bonds when so registered shall, as the same shall become due and payable, be paid in like manner as upon other registered stocks and bonds of The City of New York; and whenever any such stocks or 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.

Fund for street and park openings.

§ 173. The fund heretofore established and accumulated in the treasury of the corporation known as the mayor, aldermen

and commonalty of the city of New York, entitled the "fund for street and park openings," shall be continued in the corporation of The City of New York, as hereby constituted. The said fund for street and park openings shall consist of:

1. Whatever cash balance in said fund may upon January first, eighteen hundred and ninety-eight, be on deposit in the treasury of the corporation known as the mayor, aldermen and commonalty of the city of New York.

2. Whatever cash balances there may be on January first, eighteen hundred and ninety-eight, in the treasuries or standing to the credit of the several municipal or public corporations or parts thereof which by this act are made part of the corporation of The City of New York, and which said cash balances may be applicable to the payment of damages awarded by the commissioners of estimate and assessment in reports heretofore confirmed or hereafter to be confirmed in proceedings taken to open any street, road, avenue, boulevard, public square or place, park or parkway, or to acquire title to land required for any bridge, tunnel or approach thereto, and all the costs and expenses of such proceedings heretofore or hereafter taxed.

3. Such sums as may be raised by taxation in The City of New York, and the proceeds of such bonds as may be issued as by this act provided to meet the expense, in whole or in part, of any of the objects and purposes in the preceding subdivision of this section specified.

4. All moneys hereafter collected by The City of New York, as hereby constituted, for or on account of assessments made and confirmed and hereafter to be made and confirmed for opening any street, road, avenue, boulevard, public square or place, park or parkway, or for acquiring title to land required for any bridge, tunnel or approach thereto, wholly or partly within the limits of the several municipal or public corporations or parts thereof, which by this act, are made part of the corporation of The City of New York.

Damages, etc., to be paid from said fund.

§ 174. From the said fund for street and park openings, and not otherwise, shall be paid all damages awarded by the commissioners of estimate and assessment in reports hereafter or heretofore confirmed in proceedings taken to open any

street, road, avenue, boulevard, public square or place, park or parkway, or to acquire title to land required for any bridge, tunnel, or approach thereto in The City of New York, as hereby constituted, and all the costs and expenses of such proceedings heretofore or hereafter taxed. The person or persons to whom awards shall be made in such proceedings, wherein reports are or have been confirmed, and the person or persons in whose favor costs and expenses may be or have been taxed, shall not have an action at law against The City of New York for such awards, costs or expenses, but may require the officers of said city to raise, as hereafter provided, the money necessary to enable the comptroller to pay such awards, costs and expenses from the said fund, and thereafter compel the payment of such damages, costs and expenses from such fund. Whenever the amount of the damages awarded in any report, together with the costs of the commissioners and the charges and expenses, shall exceed the balance remaining in said fund after deducting all outstanding claims against said balance, the comptroller is authorized to raise by the issue and sale of revenue bonds such amounts as shall be necessary to pay such damages, costs and expenses; provided, however, that in each and every case in which by virtue of any existing statute or any statute hereafter enacted, or by virtue of any act or resolution heretofore or hereafter adopted by any board or body pursuant to any statute, the whole or any portion of the awards made in any proceeding, and of the costs and expenses thereof, are payable out of the fund for street and park openings and are not to be assessed upon the property benefited, but are to be borne and paid by The City of New York, the board of estimate and apportionment may, in its discretion, **[by a majority vote,]** direct that the amount so to be borne and paid by said city of New York shall be raised by the issue and sale of corporate stock of The City of New York, and the comptroller shall thereupon issue and sell said stock at such times and in such amounts as may be necessary, and shall pay the proceeds thereof into said fund for street and park openings.

Replenishment of said fund.

§ 175. The corporation counsel shall furnish to the board of estimate and apportionment in each year, at the time of making the estimate for the ensuing year, a list of all reports

confirmed for the twelve preceding months with a statement of the amount of awards and costs taxed in each proceeding. The comptroller shall at the same time furnish to the said board, statements of the amount of such awards and costs already paid, and of the amounts due for awards and costs payable from the said fund and still unpaid, and of the amounts of revenue bonds then outstanding, issued in pursuance of the last preceding section, and of the balance in the treasury to the credit of the said fund. The [municipal assembly] board of aldermen and the said board shall thereupon include in the annual budget for the ensuing year a sum sufficient, with such balance, to pay all claims for the awards and costs in all proceedings in which reports shall have been prior to that time confirmed, and which awards shall not then have been paid, and also a sum sufficient to pay and discharge the revenue bonds then outstanding and issued in pursuance of the last preceding section.

Payment of assessments imposed upon The City of New York.

§ 176. It shall be the duty of and lawful for the comptroller when thereto authorized by [the municipal assembly and] the board of estimate and apportionment to issue such amounts of the corporate stock of The City of New York 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 directly or indirectly upon The City of New York, by reason of the laying out, opening, regulating and grading or improving any and all streets, roads, avenues, public parks, squares or places, or the construction of sewers, and out of the proceeds of said stock to pay such assessments and expenses.

Disposition of moneys received from certain assessments.

§ 177. The moneys collected upon the assessments laid by the commissioners of estimate and assessment, appointed in pursuance of sections six hundred and seventy to six hundred and seventy-eight inclusive of chapter four hundred and ten of the laws of eighteen hundred and eighty-two, as amended, shall be applied toward the payment of the fund or stock authorized by section one hundred and forty of chapter four hundred and ten of the laws of eighteen hundred

and eighty-two, or to the payment of said awards and expenses, if received before the issue of said fund or stock.

Expenses relating to the water supply; how to be met.

§ 178. It shall be the duty of the comptroller, and he is hereby authorized and directed when thereto authorized by [the municipal assembly and] the board of estimate and apportionment, or when the amount to be issued in any one year exceeds the sum of two million dollars when thereunto authorized by the board of aldermen and the board of estimate and apportionment, on requisition of the commissioner of water supply, to raise, from time to time, on the issue of corporate stock of The City of New York, 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 or 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 for the distribution of water by mains, pipes or other conduits; and all such payments shall be made by the comptroller on the certificate of the commissioner of water supply, gas and electricity. [provided, however, that 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 therefor.]

Bonds for drains.

§ 179. It shall be the duty of the comptroller, when thereto authorized by the board of estimate and apportionment, to issue assessment bonds in behalf of The City of New York, 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. The proceeds of such bonds shall be paid into the

street improvement fund, from which fund payments as aforesaid shall be made, and assessments collected on account thereof shall be paid into said street improvement fund.

Expenses of the department of docks and ferries; how met.

§ 180. The comptroller shall, from time to time, when authorized by the board of estimate and apportionment on the recommendation of [directed by] the commissioners of the sinking fund, issue corporate stock of The City of New York in such amounts as they may deem the public interests to demand, but not exceeding five million dollars in any one calendar year for the purpose of raising the money necessary to carry out the provisions of title one of chapter sixteen of this act, relating to the department of docks and ferries, its powers and duties. In case the public interests demand the issue of such bonds to an amount exceeding the sum of five million dollars in any one calendar year, the approval and authority of the board of aldermen shall be obtained therefor in the manner provided for by sections forty-seven and forty-eight of this act. [Not more than three million dollars of such stock shall be issued in any one year; provided, however, that there may also be issued an additional amount of such stock, equal to the balance remaining unissued of the amount of dock bonds authorized to be issued by the provisions of chapter two hundred and forty-six of the laws of eighteen hundred and ninety-six.] The moneys received from sales of such stocks 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 board of docks [countersigned by the commissioners of the sinking fund]; provided, however, that the commissioners of the sinking fund may specify from time to time in such detail as may seem to them proper the purposes to which the proceeds of the sale of such stock shall be applied and it shall thereupon be unlawful for the board of docks to incur any liability or expense in excess of any appropriation thus made. The expenses and compensation of said board, its rents, the com-

pensation 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 provisions 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.

Assessment bonds.

§ 181. It shall be lawful for the comptroller, when authorized by the board of estimate and apportionment to issue assessment bonds, at not less than par, for such periods as said comptroller may determine, not exceeding ten years, and bearing interest at a rate not exceeding four per centum per annum, to provide the means 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, by virtue of ordinances which may be hereafter passed by the **[municipal assembly]** board of aldermen of The City of New York, the expense whereof is to be 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 hereafter be 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. 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 president of a borough, the head of the department or board having such work in charge, and also a certificate in writing from the president of a borough, head of such department or board, stating that a payment is due and the amount of such payment. On work contracted for subsequent to May seventh, eighteen hundred and seventy-two, or hereafter contracted for, no interest shall be charged on the monthly or other intermediate payments to any contractor, and thirty per centum, and no more, shall be reserved from the amount or value of work specified and certified from time to time to the

comptroller of said city, by the proper officer, to have been done by any contractor; and such reserved thirty per centum shall be paid to such contractor on or before the expiration of thirty days from the completion and acceptance of the work. The fund heretofore created by the corporation known as the mayor, aldermen and commonalty of the city of New York, known as the "street improvement fund," shall be continued, and into such fund shall be paid the proceeds of the sale of assessment bonds as by this section authorized, and of such bonds as may by other provisions of law be authorized to be issued for similar purposes within the territory of The City of New York, as hereby constituted, and for the payment of the expense of which the said city may, in the first instance, become liable, as well as the cash balances of assessments already collected, or to be hereafter collected, on account of similar contracts duly entered into by the proper authorities of the several municipal or public corporations, or parts thereof, which by this act are consolidated with the corporation known as the mayor, aldermen and commonalty of the city of New York.

Proposals for bonds and stock hereafter issued or purchased.

§ 182. Whenever any bonds or stock 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 shall invite proposals therefor by public advertisement, for not less than ten days, and shall award the same to the highest bidder or bidders 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 only be publicly opened by the comptroller, in the presence of the commissioners of the sinking fund, or such of them as shall attend. It shall be a condition of sale of such bonds and stocks, and the advertisement calling for proposals therefor shall so declare, that every bidder may be required to accept a portion of the whole amount thereof bid for by him at the same rate or proportional price as may be specified in his bid; and any bid which conflicts with this condition shall be rejected. Every bidder, as a condition precedent to the reception or consideration of his proposal, shall deposit with the comptroller a certified check, drawn to the order of said comptroller upon one of

the state or national banks of the said city, or a sum of money; such check or money to accompany the proposal to an amount to be fixed by the comptroller not exceeding two and one-half per centum of the amount of the proposal. Within three days after the decision as to who is or are the highest bidder or bidders, the comptroller shall return all deposits made to the persons making the same, except the deposit made by the highest bidder or bidders, and if the said highest bidder or bidders shall refuse or neglect, within five days after service of written notice of the award to him or them, to pay to the city chamberlain the amount of the stocks or bonds awarded to him or them at their par value, together with the premium thereon, less the amount deposited by him or them, the amount or amounts of deposit thus made shall be forfeited to and retained by said city as liquidated damages for such neglect or refusal, and shall thereafter be paid into the sinking fund of The City of New York for the redemption of the city debt.

Expenses of restoring street pavements; how met.

§ 183. The moneys which the comptroller is authorized to pay pursuant to the provisions of section [five hundred and twenty-five] three hundred and ninety-one of this act shall be obtained by him from time to time, as may be necessary, by the sale of assessment bonds as provided by section one hundred and eighty-one of this act. The money collected pursuant to the provisions of said section [five hundred and twenty-five] three hundred and ninety-one shall be set apart, when collected, as a trust fund, and applied to the redemption of the principal and interest of said bonds.

Redemption of certain bonds payable from collection of assessments.

§ 184. If at any time hereafter the amount in the treasury of the city derived from collections of assessments shall be insufficient to meet and pay, when they become due and payable, any bonds issued by The City of New York, as hereby constituted, or any bonds heretofore issued by any of the municipal or public corporations or parts thereof hereby consolidated into 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, when thereto authorized by [the municipal assembly and] the board of estimate and apportionment, to issue corporate stock of The City of New York

for an amount sufficient to pay the bonds so falling due as aforesaid; or the comptroller may in his discretion, for such purpose, issue assessment bonds in the manner provided by section one hundred and eighty-one of this act.

Deficiencies in collections of arrears of assessments; how met.

§ 185. The comptroller is hereby authorized to issue from time to time assessment bonds in the manner provided by section one hundred and eighty-one of this act, to provide such amounts as may be required to meet the deficiencies caused by delay in collecting arrears of assessments; the aggregate amount so issued not to exceed at any time the aggregate amount of said arrears then outstanding.

Bonds for state taxes.

§ 186. For the purpose of enabling The City of New York to make payment of the quota of state taxes which may be imposed upon, and chargeable to the said city and the counties wholly comprised therein, [and the part of Queens county included in said city,] at the same time or times that other counties of this state are or may be required to make payment by law, the comptroller 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, 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 of New York and said counties [and said part of Queens county,] at such times.

Revenue bonds of city; special funds.

§ 187. The comptroller is authorized to borrow, from time to time, on the credit of the corporation, in anticipation of its revenues, 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, including such amounts as are to be raised by The City of New York for county purposes. [under the provisions of section fifteen hundred and ninety-three hereof.] Such amounts shall be obtained by the issue of revenue bonds, which shall be redeemed out of the proceeds of the tax levy in

anticipation of the collection of which such bonds were issued. Whenever the comptroller may be authorized by the provisions of this act, or by laws heretofore or hereafter enacted, to issue revenue bonds for purposes other than to meet expenditures under the appropriations for each current year, such revenue bonds shall be redeemed out of the tax levy for the year next succeeding the year of their issue, and the necessary appropriation therefor shall be made by the [municipal assembly] board of aldermen and the board of estimate and apportionment in the budget for such year. Such last mentioned bonds may be designated and known as "Special revenue bonds." Cash balances of special funds in the treasuries or to the credit of the several municipal or public corporations or parts thereof, including the counties of Kings, Queens and Richmond, hereby consolidated with the mayor, aldermen and commonalty of the city of New York shall be transferred by the comptroller to like special funds of The City of New York, where such exist; and such special funds shall thereupon be liable for payments which would otherwise have been made out of the funds so transferred. Where no similar funds exist in the treasury or to the credit of The City of New York, such special fund shall be, so far as practicable, administered in the same manner as they would have been administered, if this act had not been passed. Whenever [within two years after the passage of this act,] it shall appear that the charges and liabilities of any such special fund exceed the available assets thereof, it shall be lawful for the board of estimate and apportionment, upon the written request of the comptroller, to authorize the issue of revenue bonds or assessment bonds or corporate stock of The City of New York, for the purpose of supplying such deficiency.

Special revenue bonds.

§ 188. The comptroller is authorized to issue special revenue bonds to provide the means necessary to make payments for the following purposes:

1. The expenses necessarily incurred in condemning unsafe buildings as provided by section five hundred and eleven of chapter four hundred and ten of the laws of eighteen hundred and eighty-two.
2. Amounts audited by the board of estimate and apportionment pursuant to section two hundred and thirty-one of this act.

3. Such amounts as may be necessary to pay judgments recovered against the corporation; provided, however, that when such judgments shall have been recovered for county charges or liabilities of any of the counties included within the territorial limits of The City of New York, separate accounts shall be kept thereof. The corporation counsel shall, in all such cases, advise the comptroller as to the amount of such county liability and the county incurring the same, and it shall, thereupon, be the duty of the comptroller in making the certificate to the board of aldermen, required by section nine hundred and two of this act in respect to county charges, to include in the amounts chargeable against each of such counties the amounts of such judgments respectively paid on account thereof during the preceding calendar year. It shall also be the duty of the comptroller in estimating the revenues of the general fund for the reduction of taxation as required by section nine hundred of this act, to include the amounts which shall be respectively chargeable against each of such counties.

4. The amount appropriated in pursuance of section two hundred and thirty-six of this act in those cases in which the appropriations are made after the final passage of the annual appropriation and the certification to the [municipal assembly] board of aldermen of the amount to be raised.

5. The amount necessary to defray the expense of supplying water meters as authorized by section four hundred and seventy-five of this act.

6. To provide for deficiencies in the fund for street and park openings as provided in section one hundred and seventy-four of this act.

7. To provide for the payment of claims, charges, expenses and appropriations which have been or may be [hereafter by law specifically imposed upon] lawfully payable by The City of New York, as hereby constituted, and the several counties wholly included within its limits [by the legislature], and for which no other provision for payment has been made. Separate accounts shall be kept of the bonds issued and payments

made on account of county charges and expenses and the comptroller shall similarly certify the amounts thereof to be raised by tax in the respective counties and to be included in the general fund for the reduction of taxation as provided by subdivision three of this section in the case of judgments.

8. To provide for the payment of expenses authorized by the concurrent vote of all the members of the board of estimate and apportionment upon a [joint] resolution requesting such authorization, adopted by the affirmative vote of three-fourths of all the members of the board of aldermen [elected to each branch of the municipal assembly]; provided, however, that the amount thus issued shall not in any one year exceed [two hundred and fifty thousand] one million dollars.

9. To meet and pay the expenses incurred pursuant to the provisions of sections eleven hundred and seventy-seven and eleven hundred and seventy-eight of this act.

TITLE 3.

The Chamberlain.

How appointed; bond.

§ 194. 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 before he enters upon his office, give a bond to the people of the state of New York in the sum of three 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, or his subordinates, an action upon such bond may be begun and prosecuted to judgment by the attorney-general, or by the city, which 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, or any of his subordinates.

Duties; accounts of to be examined by commissioners of accounts.

§ 195. Said chamberlain shall exhibit to the [municipal assembly] 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 shall be on deposit at any one time in any one bank or trust company exceeding one-half of the amount of the capital and net surplus of such 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, or the chief clerk of the mayor when empowered by the mayor in writing so to do, 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 an auditor of accounts, 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 by 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 of the city treasury from said banks or trust companies unless by checks subjoined and attached to such warrants and subscribed by him as chamberlain, and no moneys shall be paid by either of the said banks or trust companies on account of the treasury except upon such checks; provided, however, that this provision shall not apply to transfer checks transferring funds from one city depository to another. 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 chamberlain shall be annually closed on the last day of **[November]** December and shall be examined in the month of **[December]** January in each 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]** December next preceding such examination, and shall certify and report to the mayor and **[municipal assembly]** board of aldermen in the following month of **[January]** February 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 preceding report, the balance in the treasury on the last day of **[November]** December preceding such examination, the amount of moneys borrowed for or on the credit of the city during such year and the amount of the 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]** December 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.

Public moneys; where to be deposited; salary of chamberlain.

§ 196. The said chamberlain and mayor and comptroller shall, by a majority vote, by written notice to the comptroller, designate the banks or trust companies in which all moneys of The City of New York shall be deposited, and may, by like notice in writing, from time to time change the banks and 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 be so fixed quarterly, on the first days of February, May, August and November in each year, according to the current rate of interest upon like balances deposited in banks and trust companies in The City of New York by private persons and corporations. 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 amount of all warrants paid by him since his last report, and the amount remaining to the credit of the city. The chamberlain shall receive the sum of twelve thousand dollars annually, and no more, for his services as chamberlain of said city, and as county treasurer of the county of New York, in lieu of all 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 accrue on deposits shall be paid by him to the commissioners of the sinking fund. He may appoint and remove at pleasure, deputy chamberlains, and such clerks and assistants as may be necessary, whose salaries, together with all the expenses of his office, shall be paid by The City of New York when fixed by

[him and approved by the municipal assembly and] the board of aldermen on the recommendation of the board of estimate and apportionment.

Certain sections of code of civil procedure respecting moneys paid into court applicable.

§ 197. 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 of New York, as hereby constituted, 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, and the chamberlain shall perform all the duties prescribed by said provision of law in the counties of New York, Kings, Queens and Richmond.

Fees.

§ 198. The chamberlain is entitled, for the services specified in this section, to collect for, and on behalf of the city the following fees: For receiving money paid into the 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 the 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. All of said fees when collected by said chamberlain shall be paid by him into the city treasury, as provided in section one hundred and ninety-six of this act.

TITLE 4.

The Sinking Fund.

Commissioners of the sinking fund; how constituted.

§ 204. There shall be a board of commissioners of the sinking fund composed of the mayor, comptroller, chamberlain,

president of the [council,] board of aldermen and chairman of the finance committee of the board of aldermen, with all the powers and duties now assigned, designated and reposed by law or ordinance in the commissioners of the sinking fund of The City of New York, as heretofore constituted, of the city of Brooklyn and of Long Island City, or the officers entrusted with similar powers and duties in any of the municipal or public corporations or parts thereof, including the counties of Kings and Richmond, hereby consolidated with the mayor, aldermen and commonalty of the city of New York, except as otherwise provided by this act. The said board shall administer each of the said several sinking funds, and perform, carry out and exercise the several trusts, powers, obligations and duties relating thereto, in the same manner as the same would have been administered, performed, carried out and exercised if this act had not been passed, except as otherwise provided in this act. The assets and accounts of each of said sinking funds shall, except as hereinafter otherwise provided, be kept separate and distinct, and the same shall in all respects be administered as independent trusts, subject to and governed by the several provisions of law or ordinance heretofore relating thereto, with the intent and purpose of preserving inviolate the rights of holders of bonds and stocks heretofore issued by any of the municipal and public corporations or parts thereof hereby made of The City of New York, including the counties of Kings and Richmond.

Powers.

§ 205. 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] for a period of at least fifteen days in the City Record, and after appraisal under the direction of said board made within three months of the date of sale, any city property except parks, wharves and piers and land under water, but [not] no such lease shall run for a term longer than ten years nor a renewal for a longer period 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 municipal assembly or the department of health or under stipulations in the deed of sale or lease, unless otherwise ordered by the commissioners of the sinking fund and the municipal assembly.】 If such property be market property it shall be sold only pursuant to a resolution adopted by an unanimous vote of the commissioners of the sinking fund, concurred in by the board of aldermen. The commissioners of the sinking fund shall have power to assign to use for any public purposes any city property, for whatsoever purpose originally acquired, which may be found by the department having control thereof to be no longer required for such purpose. 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 [of The City of New York] for the redemption of the city debt. Said commissioners of the sinking fund shall have power, by unanimous vote, to settle and adjust by mutual conveyances or otherwise, and upon such terms and conditions as may seem to them proper, disputes existing between the city and private owners of property, in respect to boundary lines, and to release such interests of the city in real estate as the corporation counsel shall certify in writing to be mere clouds upon titles of private owners, in such manner and upon such terms and conditions as in their judgment shall seem proper. The provisions of existing laws or ordinances relative to the investment of moneys and assets of the several sinking funds hereby made subject to the control of the commissioners of the sinking fund, as hereby constituted, in bonds, stocks or obligations of the municipal or public corporations or parts thereof hereby consolidated into The City of New York, including the counties of Kings and Richmond, shall hereafter apply to investment thereof in the bonds and stock of the corporation of The City of New York, issued on and

after January first, eighteen hundred and ninety-eight, provided, however, that such bonds or stocks shall not thereupon or thereafter be cancelled, except as herein otherwise specifically provided, but the same shall upon their maturity be paid off, liquidated or discharged in the same manner as they would be if held by private creditors. It shall be lawful for the commissioners of the sinking fund in their discretion, and they are hereby empowered in such discretion, to cancel from time to time, but not before maturity, bonds and stocks of any of the municipal and public corporations or parts thereof forming part of the corporation of The City of New York, as hereby constituted, and of the counties of Kings and Richmond, which may be held by any of said sinking funds on December thirty-first, eighteen hundred and ninety-seven, providing said bonds and stocks are by law redeemable from the sinking funds in which the same are held. It shall also be lawful for the commissioners of the sinking fund in their discretion, and they are hereby empowered in such discretion, to cancel from time to time, but not before maturity, any portion of the indebtedness of The City of New York, as hereby constituted, incurred on or after January first, eighteen hundred and ninety-eight, which may be held by them in the "sinking fund of The City of New York," as hereinafter constituted, and which may by law be redeemable from said sinking fund as herein or elsewhere provided, and all such similar indebtedness incurred to provide for the supply of water, which may be held by them and redeemable from "the water sinking fund of The City of New York" as hereinafter constituted. The funds to be known as the "sinking fund of The City of New York" and the "water sinking fund of The City of New York," as hereinafter constituted, shall be administered by the commissioners of the sinking fund, in like manner as provided by the ordinance of the mayor, aldermen and commonalty of the city of New York, approved by the mayor, February twenty-second, eighteen hundred and forty-four, so far as the same may be applicable; provided, however, that nothing contained in said ordinance shall affect or alter the composition of the board of commissioners of the sinking fund, as by this act constituted. The commissioners of the sinking fund may by resolution assign the places where the

several municipal courts shall be held within their respective districts and may assign such place in said city as may to it seem most conducive to the public convenience, for the holding of the courts of general and special sessions, and upon the application of the board of city magistrates, may designate additional places for the holding of magistrates' or police courts and jail delivery to be held in and for the city; notice of any change of the places of holding such courts shall, before the same takes effect, be published in the City Record and the corporation newspapers, for a period of not less than two weeks. Said publication shall be made under the direction of the comptroller. The commissioners of the sinking fund may by resolution designate from time to time any building or buildings within the city to be the common jails of said city or of any of the counties contained within its territorial limits 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 a like resolution of the commissioners of the sinking fund. The sinking fund commissioners of The City of New York shall not have the power in any event to compromise or release any existing liability or obligation to The City of New York or to the mayor, aldermen and commonalty of the city of New York, or to any of the municipalities or parts of municipalities consolidated with the former city of New York, under the provisions of chapter six hundred and forty-two of the laws of eighteen hundred and eighty-six or under chapter four hundred and thirty-four of the laws of eighteen hundred and ninety-three; but such liabilities and obligations shall be and remain inviolable.

The sinking fund of The City of New York.

§ 206. There shall be created a fund to be known as the "sinking fund of The City of New York," which shall have for its purposes the liquidation of the principal of the debt of the corporation of The City of New York incurred on or after January first, eighteen hundred and ninety-eight, as to which

no provision for the payment thereof otherwise than from taxation is made, and excepting revenue bonds and bonds issued to provide for the supply of water. [pursuant to the provisions of section ten of article eight of the constitution of the state of New York.] For the redemption of such debt out of said sinking fund there shall be annually included in the budget and paid into the sinking fund of The City of New York herein created, an amount to be estimated and certified by the comptroller, and to be by the [municipal assembly] board of aldermen and the board of estimate and apportionment inserted in the budget for each year, which with the accumulations of interest thereon shall be sufficient to meet and discharge such bonds or stocks by the time the same shall be payable; provided, however, that there shall be deducted from said amount, the amounts annually received from the operation of any rapid transit railroad or railroads for the construction of which bonds shall have been issued pursuant to the provisions of the rapid transit act applicable to The City of New York or any municipal corporation or territory embraced therein. Whenever the bonds and stocks outstanding on December thirty-first, eighteen hundred and ninety-seven, and being charges or liens on any of the sinking funds hereby made subject to the control of the commissioners of the sinking fund, shall in respect to any such sinking fund be wholly discharged, liquidated or canceled, it shall thereupon be lawful for the commissioners of the sinking fund to cancel such bonds of the corporation of The City of New York issued on or after January first, eighteen hundred and ninety-eight, as may be held by such sinking fund, and the revenues of such sinking fund when thus relieved of such liens or charges shall thereupon and thereafter be paid into the sinking fund of The City of New York, as herein created. Whenever such payments shall be made, the comptroller in making the certificate to the board of estimate and apportionment by this section required shall take into account the amount thereof, and deduct the same from the estimated amount to be included in each year's budget as herein provided.

Sinking funds for redemption purposes to be continued.

§ 207. The fund known as "the sinking fund of The City of New York for the redemption of the city debt," and the fund

known as "the sinking fund of the city of Brooklyn," and the like funds of each and every of the municipal or public corporations or parts thereof by this act consolidated with the corporation known as "the mayor, aldermen and commonalty of the city of New York," including the counties of Kings and Richmond, shall be continued, and the funds, moneys, revenues and assets heretofore pledged and appropriated to each of said funds shall continue to be and the same are hereby pledged and appropriated thereto severally and respectively in the same manner as though this act had not been passed, until such time as the bonds, stocks and obligations outstanding on December thirty-first, eighteen hundred and ninety-seven, and redeemable therefrom, shall have been respectively canceled, liquidated, discharged and redeemed. Wherever, by existing laws or ordinances, the duty is imposed upon boards or officers of the several municipal or public corporations or parts thereof hereby consolidated with the mayor, aldermen and commonalty of the city of New York, including the counties of Kings and Richmond, to raise by taxation, annually or otherwise, amounts of money for sinking fund purposes, or for the redemption of or payment of interest on bonded indebtedness, for which The City of New York [are] as hereby constituted, is by this act made liable, it shall be the duty of the proper officers of the said, The City of New York, in like manner to raise such amounts by taxation upon the estates, real and personal, subject to taxation in said city.

Sinking funds created pursuant to constitutional requirements; water sinking fund of The City of New York.

§ 208. There shall be created a fund to be known as the "water sinking fund of The City of New York," which shall have for its purpose the liquidation of the principal of the debt incurred by The City of New York, as hereby constituted, on and after January first, eighteen hundred and ninety-eight, for the supply of water. [as provided by section ten of article eight of the constitution of the state of New York.] The funds known as the "sinking fund number two of The City of New York," the "water sinking fund of the city of Brooklyn," and the sinking funds of each and every municipal and public corporation or part thereof hereby made part of the corporation of The City of New York, including the counties of Kings and

Richmond, created pursuant to the requirements of the constitutional amendment adopted November fourth, eighteen hundred and eighty-four, or of section ten of article eight of the constitution of the state of New York, shall be continued, and the funds, moneys, revenues and assets heretofore pledged and appropriated to each of said funds shall, except as herein otherwise specifically provided, continue to be severally and respectively so pledged and appropriated. It shall, however, be the duty of the comptroller of The City of New York, as soon as practicable after the passage of this act, to cause an examination to be made as to the condition of said funds, and if it appears to him, and he shall so certify to the commissioners of the sinking fund, that said funds or any of them have [not] been managed, invested and administered in the manner required by the provisions of the constitution of the state of New York as aforesaid, it shall be lawful for the said commissioners of the sinking fund, by concurrent vote, to authorize and direct the amalgamation of said fund or funds with the water sinking fund of The City of New York, as hereby constituted.

Sinking funds for the payment of interest.

§ 209. 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 interest on the bonds and stocks now payable therefrom as provided by law, shall form a fund which shall be transferred to the "sinking fund of The City of New York for the redemption of the city debt"; provided, however, that nothing herein contained shall authorize the payment from said fund of any interest which may accrue on bonds to be issued by the corporation of The City of New York, as hereby constituted, after January first, eighteen hundred and ninety-eight. Like funds in any of the municipal or public corporations or parts thereof which by this act are made part of the corporation of The City of New York, as hereby constituted, including the counties of Kings and Richmond, shall likewise be continued, and any surplus that may remain therein after fully satisfying all claims, liens or charges that may exist against such funds pursuant to law or ordinance shall, unless otherwise provided by

law, be transferred to the "sinking fund of The City of New York," as herein constituted.

Disposition of certain moneys received for local improvements.

§ 210. All moneys now in the treasury of the corporation known as the mayor, aldermen and commonalty of the city of New York 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 in said city 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 herein provided.

Funds and revenues pledged to redemption of city debt.

§ 211. Between the city and its creditors, holders of its bonds and stocks as aforesaid, including the bonds and stocks of the municipal or public corporations or parts thereof consolidated with the corporation known as the mayor, aldermen and commonalty of the city of New York, as well as those of the latter corporation and of the counties of Kings and Richmond, there shall be and there is hereby declared to be a contract that the funds and revenues of the city, including all the corporations last stated and said counties of Kings and Richmond, and the funds to be collected from assessments pursuant to any law 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 the said several sinking funds as prescribed by law, until all of said debt redeemable therefrom is fully redeemed and paid as herein provided.

Sinking fund for the redemption of the city debt not to be alienated or impaired.

§ 212. Nothing in this chapter 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 rev-

venues of said fund in any manner whatever, whereby the security of said fund for the payment of the bonds and stocks of the corporation known as the mayor, aldermen and commonalty of the city of New York, 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.

Commissioners may call in bonded debt; consolidated stock of The City of New York; lien of, on sinking fund for the redemption of the city debt.

§ 213. The commissioners of the sinking fund are hereby authorized and empowered to call in, pay, and redeem any portion of the bonded debt constituting a charge upon the treasury of The City of New York, as constituted by this act, other than revenue bonds, issued in anticipation of the collection of taxes, when they may deem it to be advantageous for the interest 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 subject to the approval of the board of estimate and apportionment, to authorize and direct the comptroller to issue and sell or exchange therefor at not less than par, corporate stock of said city, in the manner herein provided; and upon the payment and redemption of any portion of said bonded debt, the certificates thereof shall be canceled by said commissioners of the sinking fund. The "consolidated stock" of the mayor, aldermen and commonalty of the city of New York, issued pursuant to the provisions of section one hundred and seventy-six of chapter four hundred and ten, of the laws of eighteen hundred and eighty-two, 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 the bonded debt of said corporation falling due and not exchanged for or redeemed from the proceeds of said consolidated stock as in said section provided, may be paid from said sinking fund for the redemption of the said 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 shall be so made.

Preferred bonds and stocks to be paid from the sinking fund for the redemption of the city debt.

§ 214. From the said sinking fund for the redemption of the city debt shall be paid and redeemed all preferred bonds and stocks of the mayor, aldermen and commonalty of the city of New York, as by this title authorized.

Disposition of certain assessments for local improvements.

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

Alteration of rates prohibited: the general fund.

§ 216. It shall not be lawful for The City of New York to make or cause to be made, any alteration of rates or charges affecting any item or source of the revenues of any 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; except such proceeds of policies of insurance as shall be authorized by the board of estimate and apportionment to be applied to repair, replace or reconstruct any public property injured or destroyed and covered by such insurance.

Applications for leases for public purposes; statement by comptroller.

§ 217. All applications to lease any real estate for the purposes of The City of New York, or any of the counties contained within its territorial limits, 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, except that a lease for an entire building intended to provide accommodations for more than one department of the city, may be made for a period not to exceed twenty-one 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.

Cession of certain lands to federal government to improve Harlem river.

§ 218. The commissioners of the sinking fund, or the [municipal assembly] board of aldermen, 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 [municipal assembly,] board of aldermen 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, or said [municipal assembly] board of aldermen, 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 and the city clerk, in the name and on behalf of The City of New York, to execute a proper conveyance of such lands under their hands and the seal of said city.

Certain duties of commissioners relative to docks, piers, etc.

§ 219. The commissioners of the sinking fund shall perform the duties and possess the powers with reference to docks, piers and slips, stated in chapter sixteen of this act.

Sale of public lands at auction.

§ 220. 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 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 by the commissioners of the sinking fund, or a majority of them, at a meeting to be held and on an appraisement made within two months 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 sinking fund for the redemption of the city debt, if the property thus sold was acquired prior to January first, eighteen hundred and ninety-eight, and if acquired subsequent thereto, into the sinking fund of The City of New York.

Sales of city's interest in tax sale certificates acquired by the former city of Brooklyn, etc.

§ 221. The commissioners of the sinking fund are authorized, upon the written application of the comptroller of The

City of New York, to sell at public auction at such times and on such terms as they may deem most advantageous for the public interest, but after due appraisal, all the city's right, title and interest in certain tax sale certificates of lands and premises purchased by the former city of Brooklyn at sales for arrears of taxes held under and pursuant to an act entitled "An act concerning the settlement and collection of arrearages of unpaid taxes, assessments and water rates of the city of Brooklyn, and imposing and levying a tax, assessment and lien in lieu and instead of such arrearages and to enforce the payment thereof," passed March sixteenth, eighteen hundred and eighty-three, and the several acts amendatory thereof. Notice of such sale shall be published in the City Record for at least thirty days prior to the date of sale, and said notice shall designate the number of the certificate, the ward in which said lands are situated, the block and lot number by which the same are designated or known on the assessment map of such ward. Upon the payment of the amount bid at such sale the commissioners of the sinking fund shall authorize the comptroller to execute an assignment of said certificate, but no assignment of any certificate given under the provisions of this section shall become operative or have any effect until the same shall have been presented by the purchaser or his representative to the deputy collector of assessments and arrears in the borough of Brooklyn, and a memorandum thereof entered on the record of sales, and a minute of such entry indorsed on such assignment, and every such assignment shall have priority according to the date such entry and minute are made and indorsed. The proceeds of said sale shall, on receipt thereof, after paying necessary charges, be immediately paid into the city treasury to the credit of the general fund.

TITLE 5.

*Appropriations and the Board of Estimate and Apportionment.***How constituted; duties; the annual budget.**

§ 226. The mayor, comptroller, [corporation counsel,] president of the [council, and the president of the department of taxes and assessments] board of aldermen, and the presidents of the boroughs of Manhattan, Brooklyn; The Bronx, Queens and Richmond shall constitute the board of estimate and apportionment. Except as otherwise specifically provided, every act of the board of estimate and apportionment shall be by resolution adopted by a majority of the whole number of votes authorized by this section to be cast by said board. The mayor, comptroller and the president of the board of aldermen shall each be entitled to cast three votes; the presidents of the boroughs of Manhattan and Brooklyn shall each be entitled to cast two votes; and the presidents of the boroughs of The Bronx, Queens and Richmond shall each be entitled to cast one vote. A quorum of said board shall consist of a sufficient number of the members thereof to cast nine votes, of whom at least two of the members hereby authorized to cast three votes each shall be present. No resolution or amendment of any resolution shall be passed at the same meeting at which it is originally presented unless twelve votes shall be cast for its adoption. 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] and at such meetings the mayor shall preside. [and one of the members shall act as secretary.] The said board shall annually, between the first day of October and the first day of November meet, and [by the affirmative vote of all the members] make a budget of the amounts estimated to be required to pay the expenses of conducting the public business of The City of New York, as constituted by this act and of the counties of New York, Kings, Queens and Richmond for the then next ensuing year. Such budget shall be prepared in such detail as to the titles of appropriations, the terms and conditions, not inconsistent with law,

under which the same may be expended, the aggregate sum and the items thereof allowed to each department, bureau, office, board or commission, as the said board of estimate and apportionment shall deem advisable. In order to enable said board to make such budget, the presidents of the several boroughs, the heads of departments, bureaus, offices, boards and commissions shall, [at least thirty days before the said budget is hereby required to be made,] not later than September tenth, 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, bureaus, offices, boards, and commissions, including a statement of each of the salaries of their officers, clerks, employees and subordinates. Duplicates of these departmental estimates and statements shall be sent at the same time to the [municipal assembly] board of aldermen. Before finally determining upon the budget the board of estimate and apportionment 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 such budget is made by the board of estimate and apportionment, it shall be [signed by all the members thereof, and] submitted by said board within [ten] five days to the [municipal assembly] board of aldermen, whereupon a special [joint] meeting of the [two houses constituting the municipal assembly] board of aldermen shall be called by the mayor to consider such budget, and the same shall simultaneously be published in the City Record. [The president of the council shall preside at such joint meeting, and it shall be the duty of said two houses to consider and investigate carefully the said budget; but such consideration and investigation shall not continue beyond fifteen days.] The consideration of such budget by the board of aldermen shall continue from day to day until final action is taken thereon but such consideration shall not continue beyond twenty days, and in the event of said board of aldermen taking no action thereon within such period of time, the said budget shall be deemed to be finally adopted as submitted by the board of estimate and apportionment. The

【municipal assembly】 board of aldermen 【by a majority vote by all the members elected thereto】 may reduce the said several amounts fixed by the board of estimate and apportionment, except such amounts as are now or may hereafter be fixed by law, and except such amounts as may be inserted by the said board of estimate and apportionment for the payment of state taxes and payment of interest and principal of the city debt, but the 【municipal assembly】 board of aldermen may not increase such amounts nor vary the terms and conditions thereof, nor insert any new items. Such action of the 【municipal assembly】 board of aldermen on reducing any item or amount fixed by the board of estimate and apportionment shall be subject to the veto power of the mayor as elsewhere provided in this act, and unless such veto is overridden by a 【five-sixths】 three-fourths vote of the 【municipal assembly】 board of aldermen, the item or amount as fixed by the board of estimate and apportionment shall stand as part of the budget. 【After the final estimate is made in accordance herewith, it shall be signed by the president of the council and the members of the board of estimate and apportionment, 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 and corporation newspapers.】 Prior to December twenty-fifth in each year the budget, as finally adopted pursuant to the provisions of this section, shall be certified by the mayor, comptroller and city clerk whereupon the said several sums shall be and become appropriated to the several purposes therein named. On or before December thirty-first in each year the said budget shall be filed in the office of the comptroller and published in the City Record.

Payment of city's obligations to be provided for.

§ 227. 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 commis-

sioners 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.

Duties when accumulations in sinking fund are insufficient.

§ 228. Whenever and as often as the commissioners of the sinking fund shall certify to the board of estimate and apportionment that the accumulations in any sinking fund will not be sufficient to meet the payment of any bonds or stocks falling due in the next following calendar year redeemable therefrom, it shall be the duty of the said board of estimate and apportionment, and it is hereby required to include in the annual budget for such year, to be raised by tax on the estates, real and personal, in the 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.

Certain city bonds and stocks; annual provisions to meet payment of.

§ 229. For the payment of all bonds and stocks of the mayor, aldermen and commonalty of the city of New York issued after June third, eighteen hundred and seventy-eight, and for the payment of all the bonds and stocks hereafter issued by The City of New York, as hereby constituted, and for which no provision for the payment thereof, otherwise than from taxation is made, except revenue bonds issued in anticipation of the collection of taxes there shall annually be set apart or paid over to the commissioners of the sinking fund, as hereinafter directed, and invested by them in the manner provided by law, 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 the same shall be estimated and certified by the comptroller. The said annual sum so to be set apart or paid over and invested, except so far as it relates to bonds and stocks issued on or after January first, eighteen hundred and ninety-eight, and bonds issued to provide for the supply of water, shall, until other provisions therefor may be hereafter made by law, be set apart out of the surplus income, revenues

and accumulations of the sinking fund for the redemption of the city debt as now established by law, after fully providing for the payment of the stocks and bonds of said city now outstanding, and which, by sections two hundred and twelve and two hundred and thirteen of this act, are declared to be and are made preferred claims upon said sinking fund, and also for the payment of such other bonds and stocks of said city as by said section two hundred and thirteen of this act are authorized to be paid from said sinking fund. Whenever, and as often as the commissioners of the sinking fund shall certify to the board of estimate and apportionment that the said surplus revenues of said sinking fund will, in the opinion of said commissioners, be less than the amount by this section required to be set apart or paid over to said commissioners for the purposes aforesaid, and certifying the amount of such deficiency, it shall be the duty of said board of estimate and apportionment, and the [municipal assembly,] board of aldermen to include in the annual budget for the year next ensuing to be raised by tax on the estates, real and personal, in said city subject to taxation, the amount of the deficiency certified as aforesaid, and this amount so raised by tax shall be paid to the commissioners of the sinking fund on the first day of November of the year in which the same shall be levied.

Items to be included in annual estimate.

§ 230. The board of estimate and apportionment shall, in addition to such other amounts as it may in its discretion provide for public purposes in The City of New York and the several counties wholly contained within its territorial limits, annually include in its final estimate the following sums, which shall annually be raised and appropriated:

【First—Such sum in any year, as shall be included in the estimate of the department of highways, to be expended in repaving or resurfacing such streets, roads, avenues, and public places in the said city as shall be certified to the municipal assembly by the commissioner of highways as required to be repaved for the safety, health, or convenience of the public, and as said assembly shall, by ordinance or resolution, direct.】

【Second—Such sum as said board may deem necessary in the interest of the city, to be expended by the commissioner of water supply when thereto authorized by the municipal assembly, ac-

ording to law, in extending and enlarging the distribution of water through the city.】

【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.】

【Fourth—The amount fixed by said board for clerk hire and contingent and incidental expenses of the office of the commissioners of jurors, but not exceeding the amount fixed by law.】

First 【Fifth】—A sum not exceeding eight thousand dollars to be paid to the trustees of the Seventh regiment armory building, as an equivalent and in lieu of the rental of an armory for said regiment, to be applied to the preservation, maintenance and improvement of said armory building, as provided in chapter five hundred and eighteen of the laws of eighteen hundred and ninety-three, said sum to be paid in the month of January in each year.

【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.】

Second 【Seventh】—The amount necessary for the maintenance of the buildings, instruments and equipments of:

1. The meteorological and astronomical observatory.
2. The American Museum of Natural History, not exceeding 【ninety-five】 one hundred and thirty-five thousand dollars.
3. The Metropolitan Museum of Art, not exceeding ninety-five thousand dollars.
4. The Brooklyn Institute of Arts and Sciences, not exceeding ninety-five thousand dollars.

Third 【Eighth】—Such sum, not exceeding seventy-five thousand dollars, as is included in the departmental estimates submitted to it by the department of public charities, to be applied to the relief of poor adult blind persons.

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

Fifth **[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.

Sixth **[Eleventh]**—Such sum as may be necessary to pay the compensation due according to law to justices of the supreme court from judicial departments, other than the first and second judicial district, who hold court in the first judicial department, or who hold court within the second judicial department within the said city of New York as hereby constituted.

Seventh **[Twelfth]**—Such sum as may be necessary to pay the salaries of county officers within the counties of New York, Kings, Queens and Richmond, and likewise all other expenses within said counties and each of them which are county as distinguished from city charges and expenses.

[Thirteenth—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, unless otherwise provided by said board and the municipal assembly.]

[Fourteenth—To pay the proportion of expense chargeable to the city for the maintenance and repair of public bridges which are now built, or which may hereafter be built within The City of New York as hereby constituted.]

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

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

Eighth **[Seventeenth]**—Such sum as is necessary for defraying the expenses incurred in carrying out the provisions of sections ten hundred and ninety-three, ten hundred and ninety-four and ten hundred and ninety-five of chapter four hundred and ten of the laws of eighteen hundred and eighty-two.

[Eighteenth—Such sum as may be necessary to pay the expenses of the magistrates' courts and the board of city magistrates incurred in accordance with law.]

Ninth **[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 eleven hundred and thirty-one of this act.】

【Twenty-first—Such sum as may be required by the trustees of the Normal college, in the city of New York, pursuant to the provisions of section eleven hundred and forty-two of this act.】

Tenth 【Twenty-second】—The sums necessary, in the discretion of said board, 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. And also the sum of twenty-five thousand dollars, to be applied to the support of the industrial schools and other charitable work of the said society.

2. To the New York Society for the Prevention of Cruelty to Children the sum of thirty thousand dollars for the uses and purposes of 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 received care and attendance in 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 and 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 one year for any mother so remaining continuously. And to the New York Medical College and Hospital for Women, twenty-five dollars for each needy mother who has received care and obstetric attendance at her home or in the lying-in wards of the said hospital, for such care and obstetric

attendance, and the further sum of eighteen dollars per month and proportionately for each fraction of a month for each mother attended at the birth of her child and domiciled at such hospital, but not for a longer period than one year, and also for each homeless or needy mother with a nursing infant who resides at said hospital 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 such sums to the New York Medical College and Hospital for Women shall not exceed eight thousand dollars in the aggregate in any one year.

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 New York Institution for the Blind, fifty dollars for each state pupil sent to and received in 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.

7. To the Children's Aid Society, the sum of ten thousand dollars for the uses and purposes of said society. 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. 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. To St. John's Guild, of the city of New York, the sum of thirty thousand dollars, to be applied to the maintenance and operation of its hospitals, to the support of its other charitable work and to the general uses and purposes of said society, and to the Sanitarium for Hebrew Children in the city of New York, the sum of five thousand dollars to be applied to the support of its charitable work.

8. To the Foundling Asylum of the Sisters of Charity and to the Babies' Hospital of the city of New York, respectively, at the rate of thirty-eight cents per day for each and every foundling or infant received and maintained by them. And also for each and every homeless and needy mother with a nursing infant, who shall reside at the asylum, or at said hospital, by request of its officers, and nurses her own infant, the sum of eighteen dollars per month. To the babies' wards of the Post-Graduate

Hospital in the city of New York, at the rate of thirty-eight cents per day for each and every infant received and cared for therein.

9. 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. To the New York Polyclinic Medical School and Hospital, for board, nursing and medical or surgical aid and attendance, one dollar per day for each needy and charity patient who occupies a bed in said hospital and who receives such care, support and maintenance; such payments not to exceed in the aggregate thirty thousand dollars per annum. To the New York Homeopathic College and Hospital, for board, nursing and medical or surgical aid and attendance, one dollar per day for each needy and charity patient who occupies a bed in the Flower Surgical Hospital, belonging to said New York Homeopathic College and Hospital, and who receives such care, support and maintenance; such payment not to exceed in the aggregate twelve thousand dollars per annum.

10. 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.

11. 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.

12. 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 institutions; 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.

13. 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, and to the Hebrew Sheltering Guardian Society of New York one hundred and four dollars per annum and proportionately for any fraction of a year for each orphan, half orphan and indigent child committed or entrusted to its care in pursuance of the provisions of law.

14. 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 entrusted or committed to the said asylum and shall be supported and instructed therein.

15. 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.

16. 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.

17. 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.

18. 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.

19. 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.

20. To the Peabody Home for Aged and Indigent Women, the sum of one hundred and fifty dollars per annum for each and every woman therein over sixty-five years of age received and supported by said institution, not exceeding, however, the sum of five thousand dollars in any one year, and to the Sloan Maternity Hospital in the city of New York, the sum of five dollars per week for every destitute woman admitted into its lying-in ward, according to the time of the said woman 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, but such sums shall not exceed eight thousand dollars in any one year. And to the New York Female Asylum for lying-in women, twenty-five dollars for each homeless and needy mother who has received care and attention in the lying-in ward of the asylum, for such care and obstetric attendance, but such sums shall not exceed eight thousand dollars in any one year.

21. To the Mothers' and Babies' Hospital, fifteen dollars for each homeless and needy mother who has received care and attention in the lying-in ward of the hospital, for such care and obstetric attendance, not to exceed three hundred patients in any one year.

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

23. The board of estimate and apportionment are hereby

authorized in their discretion to include in their annual statements and estimates the following specified sums of money for the respective purposes herein stated, namely: Four thousand dollars to be paid to the Brooklyn Hospital (formerly City Hospital); four thousand dollars to be paid to the Long Island College Hospital; four thousand dollars to be paid to the Brooklyn Homeopathic Hospital; fifteen hundred dollars to be paid to the Brooklyn Central Dispensary; fifteen hundred dollars to be paid to the Brooklyn City Dispensary; fifteen hundred dollars to be paid to the Brooklyn Eclectic Dispensary; fifteen hundred dollars to be paid to the Brooklyn Homeopathic Dispensary; five thousand dollars to be paid to the Brooklyn Eastern District Dispensary and Hospital (formerly the Williamsburgh Dispensary); fifteen hundred dollars to be paid to the Long Island College Dispensary; fifteen hundred dollars to be paid to the Gates Avenue Homeopathic Dispensary; four thousand dollars to be paid to the Brooklyn Nursery and Infants' Hospital; fifteen hundred dollars to be paid to the Brooklyn Eastern District Homeopathic Dispensary (formerly the Williamsburgh Homeopathic Dispensary); twenty-five hundred dollars to be paid to the Brooklyn Maternity (formerly Brooklyn Lying-in Asylum); twenty-five hundred dollars to be paid to the Eye and Ear Hospital of the city of Brooklyn; one thousand dollars to be paid to the Southern Dispensary and Hospital; fifteen hundred dollars to be paid to the Orthopedic Dispensary; four thousand dollars to be paid to the Saint Peter's Hospital; fifteen hundred dollars to be paid to the Saint Peter's Dispensary; two thousand dollars to be paid to the Atlantic avenue Dispensary; one thousand dollars to be paid to the Saint Mary's Dispensary; two thousand dollars to be paid to the Brooklyn Diet Dispensary; fifteen hundred dollars to be paid to the Saint Catherine's Dispensary; four thousand dollars to be paid to the Saint Catherine's Hospital; one thousand dollars to be paid to the Helping Hand Society of Brooklyn; one thousand dollars to be paid to the Sheltering Arms Nursery of Brooklyn; four thousand dollars to be paid to the Brooklyn Home for Consumptives; four thousand dollars to be paid to the Memorial Hospital for Women and Children; four thousand dollars to be paid to the Saint Mary's General Hospital of the city of Brooklyn; fifteen hundred dollars to be paid to the Central Homeopathic Dispensary; fifteen hundred dollars to be paid to the Memorial Dispensary; fifteen hundred dollars to be paid to the Bushwick and East Brooklyn Dis-

pensary; fifteen hundred dollars to be paid to the Dispensary of the College of Physicians and Surgeons of Saint Mary's Hospital of the city of Brooklyn; four thousand dollars to be paid to the Methodist Episcopal Hospital of the city of Brooklyn; two thousand dollars to be paid to the Saint Mary's Female Hospital; fifteen hundred dollars to be paid to the Lutheran Hospital Association of the city of New York and vicinity; four thousand dollars to be paid to the Brooklyn Throat Hospital; two thousand dollars to be paid to the Bedford Dispensary and Hospital; four thousand dollars to be paid to the St. Martha's Sanitarium and Dispensary; three thousand dollars to be paid to the Central Throat Hospital and Polyclinic Dispensary; three thousand dollars to be paid to the Long Island Throat Hospital and Eye Infirmary (formerly the Long Island Throat and Lung Hospital and People's Dispensary Association); four thousand dollars to be paid to the Norwegian Lutheran Deaconesses' Home and Hospital; two thousand and five hundred dollars to be paid to the Brooklyn Home for Aged Colored People; three thousand dollars to be paid to the St. Mary's Maternity and Infant's Home; two thousand dollars to be paid to the Memorial Training School for Nurses; four thousand dollars to be paid to the Church Charity Foundation of Long Island for its hospital; twenty-five hundred dollars to be paid to the Home of St. Giles the Cripple; three thousand dollars to be paid to the Bushwick Hospital; four thousand dollars to be paid to the Brooklyn Society for the Prevention of Cruelty to Children; two thousand dollars to be paid to the Brooklyn Training School and Home for Young Girls; fifteen hundred dollars to be paid to the dispensary of the Methodist Episcopal Hospital; twenty-five hundred dollars to be paid to the Low Maternity; fifteen hundred dollars to be paid to the Brooklyn Hospital dispensary; two thousand dollars to be paid to the Society for the Aid of Friendless Women and Children; two thousand dollars to be paid to the Stone Maternity of Brooklyn; fifteen hundred dollars to be paid to St. Phebe's mission; fifteen hundred dollars to be paid to the Orphan Asylum Society of the city of Brooklyn; two thousand five hundred dollars to be paid to the Industrial Home for the Blind; [one thousand dollars to be paid to the Homeopathic Hospital Association of Brooklyn;] fifteen hundred dollars to be paid to the Brooklyn Industrial School Association and Home for Destitute Children; fifteen hundred dollars to be paid to the Industrial Home School

Association of Brooklyn, eastern district; twenty-five hundred dollars to be paid to the Maternity of the Long Island College Hospital; fifteen hundred dollars to be paid to the Twenty-sixth Ward Homeopathic Dispensary; such several sums of money to be paid to the several institutions in consideration of their contracting to render and rendering medical and surgical aid and treatment to the poor of the county of Kings who may apply to them therefor; such contract to be in writing, executed on behalf of the city by the mayor and comptroller and also by the executive officers of said associations respectively, and to be approved by the counsel to the corporation of the city, to be filed annually on or before the thirty-first day of May, in the office of the city clerk.

24. Any other sum or sums which may heretofore have been duly authorized by law to be paid [by tax] within The City of New York, or any part thereof, as constituted by this act, for the education and support of the blind, the deaf and dumb and juvenile delinquents, and for the care, support, maintenance and secular education of inmates of orphan asylums, protectories, homes for dependent children or correctional institutions, or to charitable, eleemosynary, correctional and reformatory institutions, wholly or partly under private control for care, support and maintenance, as in such law specified. The board of estimate and apportionment may also, in its discretion, appropriate and allow moneys raised by taxation or received from any other source and properly applicable thereto, to any charitable, eleemosynary, correctional or reformatory institution wholly or partly under private control for the care, support and maintenance of its inmates; such payments to be made only for such inmates as are received and retained therein pursuant to rules established by the state board of charities. The board of estimate and apportionment may in any year, and from time to time, increase or diminish, the sum authorized to be paid to any institution, association, corporation or society included in the [twenty-second] tenth paragraph of this section. The final estimate shall specify each institution by its corporate name and the sum to be paid thereto, with a reference to the laws authorizing the appropriation, and the comptroller is authorized to pay the sum to such institution upon its appearing to his satisfaction in such manner as he shall prescribe that the expenditure thereof by the institution is lawful and proper. No appropriation shall be made under this section to any cor-

poration unless the mayor of the city, or the president of the borough in which the chief office of such corporation is situated, be notified of all meetings of its board of management and be empowered to attend the same or designate in writing some person to do so in his behalf; but this shall not be construed as impairing any existing powers of visitation vested in the supreme court or the state board of charities, or any provisions of law requiring statements by such corporations as to their affairs.

Board of estimate and apportionment to audit charges against city for costs, etc.

§ 231. The board of estimate and apportionment is hereby authorized 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 commissioner, city magistrate or police justice who shall have been a successful party in any proceedings or trial to remove him from office, or who shall bring or defend any action or proceeding, in which the question as to his title to office is in any way presented, or involved, or in which it is sought to convict him, or to review or prohibit any such removal or to obtain possession of his office, or by any commissioner for the proper presentation and justification of his official conduct before any body or tribunal lawfully investigating the same, and not officially recommending his removal from office. The board of estimate and apportionment and the **[municipal assembly]** board of aldermen are hereby authorized and directed to cause to be included in the budget for the year following such audit, an amount sufficient to pay the revenue bonds directed to be issued by the said comptroller pursuant to section one hundred and eighty-eight of this act, with all interest due or to become due thereon.

Deficiencies; how provided for.

§ 232. 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 defi-

ciency 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 and the **[municipal assembly]** board of aldermen, by including the same in the annual appropriation first made, after the amount of such deficiency, if any, shall be ascertained.

Issue of certain stock and bonds authorized; transfers of appropriations.

§ 235. 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, 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.]**

Appropriation for prevention of contagious diseases.

§ 236. 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 **[municipal assembly]** board of aldermen and 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 eighty thousand dollars in excess of such annual appropriation, and if any sum or sums of money shall be so appropriated by said **[municipal assembly]** board of aldermen and said board of estimate and apportionment in any year prior to the date of the certificate

of the comptroller to the [municipal assembly] board of aldermen of the aggregate amount of the budget for such year, the amount thereof shall be added to such final estimate, and included in the tax levy in such year.

Board of estimate may transfer excess of appropriations.

§ 237. 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 president of a borough, the head of [the] a department or other officer having control of such appropriation, [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 in such year are insufficient, or such as may require the same. But nothing in the power thus conferred shall authorize the transfer by said board of an appropriation made for any object or purpose, in one year, to any purpose or object, whether an appropriation has been made therefor or otherwise, in any subsequent year. And any balance of appropriations remaining unexpended at the close of any fiscal year, after allowing sufficient to satisfy all claims payable therefrom, and also any balance to the credit of any account of moneys which have been or may hereafter be paid into the treasury of the city, under existing laws, appropriated or authorized to be expended for any specific purpose, and which the said board of estimate and apportionment may determine not to be necessary, or to be in excess of the amount required therefor, may, at any time, but not less than sixty days after the expiration of the year for which such appropriations are made, or sixty days after the expiration of the year during which the moneys aforesaid were paid into the treasury of the city, after allowing sufficient to satisfy all claims payable from such appropriations, or which the comptroller shall certify should be paid from said moneys paid into the treasury, as aforesaid, be transferred by the comptroller, with the approval of the said board of estimate and apportionment, to the general fund of the city, and applied to the reduction of taxation. The approval by the board of estimate and apportionment of the certificate of the comptroller, as aforesaid, shall be an appropriation of the amounts therein stated to the object or purposes in said certificate specified.

Appropriations out of excise moneys to home for girls.

§ 238. There may 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.

Street sweeping contracts to be approved by board.

§ 239. The terms and conditions of all contracts for street sweeping and cleaning, or for the collection of ashes and garbage, shall, before they are entered into, be approved by the board of estimate and apportionment.

Excise moneys; how appropriated.

§ 240. Said board of estimate and apportionment is authorized, from time to time, in sums according to its discretion, by resolution of said board, to appropriate from excise moneys obtained from either local or state boards or officers, for taxes or 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 resolution 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, or 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, and 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 children of volunteers who died 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. The said board of estimate and apportionment is also authorized, from time to time, and in sums according to its discretion, to appropriate, by resolution of said board, all moneys derived from penalties and fines, recovered, pursuant to sections fourteen hundred and seventy-three, fourteen hundred and eighty-one and fourteen hundred and eighty-two of this act, and all moneys from licenses for amusements [provided for in chapter twenty-two, title two of this act,] to whatever benevolent or charitable institutions may seem to such board deserving or proper; but no such resolution shall be valid unless adopted by vote of a majority of said board; and the comptroller of said city is hereby authorized and directed to draw his warrants in favor of the corporations, societies, or charitable institutions, respectively mentioned in such resolution according to the tenor thereof; and the chamberlain of said city shall pay such warrants out of the said moneys received for such penalties, fines and licenses.

Appropriations for contesting office to be made for prevailing party only.

§ 241. No appropriation or payment for the contesting of the office of mayor, or any seat in the [municipal assembly] 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 appropriations or payment be made to such prevailing party except upon the written certificate of the chief officer of the law department, and of the presiding justice of the appellate division of the first department of the supreme court certifying who is such prevailing party, and 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 for the officer or clerk making an application therefor.

Board of estimate and apportionment; powers with respect to certain subjects.

§ 242. The board of estimate and apportionment shall have power over the following subjects:

(1.) To appropriate, from time to time, for the maintenance, improvement and extension of the system of water supply of the borough of Brooklyn, the moneys received from water rents in the said borough, subject, however, to the charges now imposed by law upon said revenues.

(2.) To appropriate, from time to time, for the maintenance of the New York and Brooklyn Bridge the moneys received from the revenues of said bridge.

Authority to change the map or plan of the city or to change grades.

§ 243 [436]. The board of [public improvements] estimate and apportionment is authorized and empowered, whenever and as often as it may deem it for the public interest so to do, to initiate a change in the map or plan of The City of New York, so as to lay out new streets, parks, bridges, tunnels and approaches to bridges and tunnels and parks, and to widen, straighten, extend, alter and close existing streets, and to change the grade of existing streets shown upon such map or plan, by publishing notice of its proposed action for ten days in the City Record and the corporation newspapers, and giving an opportunity for all persons interested in such change to be heard, at a time and place to be specified in such notice, such time to be not less than ten days after the first publication of such notice. After the due publication of such notice, and after hearing protests and objections, if any there be, against the proposed change, if the said board shall favor such change, notwithstanding such protests and objections, it shall transmit its resolution to that effect to the [municipal assembly] board of aldermen, together with the objections, if any, which have been made in writing, and filed with it, and a statement of its reasons for such determination. If [both houses of] the [municipal assembly] board of aldermen concur in such resolution passed by the board of [public improvements] estimate and apportionment, by passing an ordinance adopting and ap-

proving the same by a two-thirds vote, and the same receives the approval of the mayor, such change in the map or plan of The City of New York, or in the grade of any street or streets shown thereon, shall be deemed to have been made. The board of **[public improvements]** estimate and apportionment is authorized and empowered without the concurrence of the [municipal assembly] board of aldermen, but with the approval of the mayor, to change the grades of bridges, tunnels and approaches to bridges and tunnels, and the location of approaches to bridges and tunnels.

Board of [public improvements] estimate and apportionment; general powers.

§ 244. **[426]** The said board of **[public improvements]** estimate and apportionment shall exercise such powers and perform such duties with respect to the whole territory embraced within The City of New York, as constituted by this act, as were heretofore vested in the board of street opening and improvements of the corporation known as the mayor, aldermen and commonalty of the city of New York, with respect to the territory included within that municipality, except so far as the same have been otherwise specifically and expressly conferred by this act. All the maps, records and proceedings of the board of public improvements relating to the subjects as to which jurisdiction is conferred by this section upon the board of estimate and apportionment, shall be transferred to, kept and maintained in the office of the board of estimate and apportionment. And the board of **[public improvements]** estimate and apportionment shall exercise such other powers and perform such other duties as are vested in or cast upon it by any of the provisions of this act, or that may in accordance with the law be devolved upon it by the **[municipal assembly]** board of aldermen. All acts or proceedings heretofore performed or taken by the board of public improvements of The City of New York in respect to the powers hereby conferred and the duties hereby imposed upon the board of estimate and apportionment, shall continue to be valid and of full

force and effect unless modified, repealed or abrogated in the manner provided by law.

TITLE 6.

Levying Taxes.

Deficiencies; limits of; levies for.

§ 248. It shall be the duty of the [municipal assembly] 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 centum of said aggregate amount, to provide for deficiencies in the actual product of the amount imposed and levied therefor.

Aggregate amount apportioned to be certified to [municipal assembly] board of aldermen and raised.

§ 249. The aggregate amount estimated by the [municipal assembly] board of aldermen and the board of estimate and apportionment, in the annual budget, shall be certified by the comptroller to the [municipal assembly] board of aldermen; and it shall be the duty of said [municipal assembly in joint session of both houses] board of 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 of New York, the amount so certified, as aforesaid.

CHAPTER VII.

LAW DEPARTMENT.

[Law department] Corporation counsel to be the head of the law department; duties [and powers]; salary.

§ 255. There shall be a law department of The City of New York, the head whereof shall be called the corporation counsel, who shall be the attorney and counsel for The City of New York, the mayor, the [municipal assembly] board of aldermen and each and every officer, board and department of said city, except as otherwise herein provided. The salary of the corporation counsel shall be fifteen thousand dollars a year. The corporation counsel shall have charge and conduct of all the law business of the corporation and its departments and boards, and of all law business in which The City of New York, is interested, except as otherwise herein provided. He shall have charge and conduct of the legal proceedings necessary in opening, widening, altering and closing streets, and in acquiring real estate or interests therein for the city by condemnation proceedings, and the preparation of all leases, deeds, contracts, bonds and other legal papers of the city, or of, or connected with, any department, board or officer thereof, and he shall approve as to form all such contracts, leases, deeds, bonds and other legal papers; provided, however, that he shall not institute any proceeding for acquiring title to real estate by condemnation proceedings, except for opening streets, unless the same shall have been approved by the [concurrent vote of all the members of the] board of estimate and apportionment upon a statement to be furnished said board of the valuation of such real estate as assessed for purposes of taxation; and provided, further, that the board of estimate and apportionment shall have power by a majority vote to direct such changes to be made in the forms of contracts and specifications as may seem to promote the interests of the city. He shall be the legal adviser of the

mayor, the **[municipal assembly]** board of aldermen, the presidents of the boroughs and the various departments, boards and officers, except as otherwise herein provided, and it shall be his duty to furnish to the mayor, the **[municipal assembly]** board of aldermen, the presidents of the boroughs and to every department, board and officer of the city all such advice and legal assistance as counsel and attorney in or out of court as may be required by them or either of them, and for that purpose the corporation counsel may assign an assistant or assistants to any department that he shall deem to need the same. No officer, board, or department of the city, unless it be herein otherwise especially provided, shall have or employ any attorney or counsel, except where a judgment or order in an action or proceeding may affect him or them individually or may be followed by a motion to commit for contempt of court, in which case he or they may employ and be represented by attorney or counsel at his or their own expense. The corporation counsel, except as otherwise herein provided, shall have the right to institute actions in law or equity, and any proceedings provided by the code of civil procedure or by law in any court, local, state or national, to maintain, defend and establish the rights, interests, revenues, property, privileges, franchises or demands of the city or of any part or portion thereof, or of the people thereof, or to collect any money, debts, fines or penalties or to enforce the laws and ordinances. **[He shall be a member of the board of estimate and apportionment and of the board of public improvements.]** He shall not be empowered to compromise, settle or adjust any rights, claims, demands or causes of action in favor of or against The City of New York; provided, however, that this inhibition shall not operate to limit or abridge the discretion of the corporation counsel in regard to the proper conduct of the trial of any proceeding or action at law, or to deprive said corporation counsel of the powers or privileges ordinarily exercised in the course of litigation by attorneys-at-law when acting for private clients. **[or to]** He shall not permit, offer or confess judgment against the city, or **[to]** accept any offer of judgment in favor of the city, or determine not to take an appeal, or

abandon an appeal already taken without the previous written approval of the comptroller; and in case of any claim for a money judgment exceeding ten thousand dollars, or for relief other than in the nature of a money judgment, the previous written approval of the mayor shall be also necessary.

Corporation counsel's power of appointment.

§ 256. The corporation counsel may appoint, and at pleasure remove, as many assistants to the corporation counsel as are necessary to the discharge of the duties of the law department, and he may appoint and at pleasure remove such clerks, assistants, and subordinates as are requisite to the discharge of the business of the department, giving to his appointees such titles or designations as he may deem appropriate to their services, respectively. [He shall fix and regulate the salaries and compensation of all of his appointees within the limits of the appropriation for his department.] Any assistant corporation counsel shall, in addition to his other powers, possess every power and perform all and every duty belonging to the office of the corporation counsel, or so much of such duties as the corporation counsel shall deem it necessary to delegate whenever so empowered by said corporation counsel by written authority, designating therein a period of time, not extending beyond three months, nor beyond the term of office of said corporation counsel, during which such power and authority may be exercised; such designation and authority must be duly filed and remain on record in the law department, and may be revoked at any time. Neither the corporation counsel, nor any of his assistants, shall appear as attorney or counsel in any action or litigation except in the discharge of his official duties, nor accept an appointment as referee or receiver in any action or proceeding.

Branch offices.

§ 257. In addition to the main office of the corporation counsel, which shall be located in the borough of Manhattan, he shall have an office in the borough of Brooklyn and, in his discretion, may maintain an office in the borough of The Bronx, the borough of Queens and the borough of Richmond, or either of them.

Bureaus.

§ 258. The corporation counsel may establish such bureaus for divisions of service in the law department as he may judge most conducive to the efficient discharge of duty. There shall be a bureau in the law department to be known as the "bureau of street openings." It shall have charge under the direction of the corporation counsel of such legal proceedings to open, widen, alter or close streets and parks, and to acquire title to or extinguish interests in real estate therefor, and of all such other proceedings involving awards for damages or assessments for benefit to lands, tenements and hereditaments as may be assigned to it by the corporation counsel. The corporation counsel shall appoint and remove, at will, the head of said bureau and all other employees thereof, and shall regulate their salaries and compensation. The assistants to the corporation counsel assigned to such bureau, shall conduct in his behalf, and subject to his direction and control, all legal proceedings so assigned, and shall **[may]** also act as clerks to the commissioners of estimate or the commissioners of estimate and assessment in all such proceedings without compensation therefor other than their salaries. Such bureau shall furnish to the commissioners of estimate or the commissioners of estimate and assessment in each proceeding, suitable offices and all the assistants which they may require in preparing their preliminary abstracts of estimate or of estimate and assessment, and their final reports for presentation to the supreme court for confirmation. The compensation of the head of said bureau and of all other employees thereof, and all the legal costs, charges, expenses and disbursements incurred by said bureau on account of such proceedings, shall be divided proportionately, as nearly as practicable, to the services rendered or expense incurred in each of the said proceedings, and shall be included in the assessment for benefit to be imposed by the commissioners of estimate or the commissioners of estimate and assessment in each proceeding as part of the costs, charges and expenses thereof, after the same shall have been taxed by the court in the manner now provided by law for the taxation of such costs, charges, expenses and disbursements; but the compensation of the employees of said bureau and the necessary charges, expenses and disbursements

thereof, shall be chargeable to and shall be paid monthly, in the first instance by the comptroller of The City of New York, out of the fund known as "the fund for street and park openings," created by chapter one hundred and seventy-three of the laws of eighteen hundred and eighty-five, and the acts amendatory thereof and supplemental thereto, upon pay-rolls and vouchers duly certified by the corporation counsel. The assistant clerks or other appointees, of this bureau, engaged in the transaction of business or duties pertaining to the borough of Brooklyn, may have their office in the borough hall or public building of the borough of Brooklyn and if, in the judgment of the corporation counsel it be convenient and advisable, such of the assistants, clerks or other appointees of this bureau as may be engaged in the transaction of business pertaining to the borough of The Bronx, the borough of Richmond or the Borough of Queens, may likewise have an office in either of said boroughs.

Bureau for recovery of penalties.

§ 259. There shall be a bureau in the law department for the recovery of penalties for the violation of any law or municipal ordinance, to be called the "bureau for the recovery of penalties." All actions for such recovery shall be brought in the name of The City of New York, and not in that of any department, except where otherwise provided by this act. The assistant corporation counsel assigned to this bureau in the main office, or in the branch office located in any borough, shall not receive for his own use any fees or emoluments in addition to his salary, and he shall pay into the city treasury all costs and commissions received by him 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. [Such statement, with a detailed list of] A statement of the costs, commissions, fines and penalties collected, shall be published in the City Record monthly. All fines or moneys, from whatsoever source, received by the head of this bureau, shall be paid into the treasury of the city, except as otherwise specifically provided by law.

Bureau for collection of arrears of personal taxes.

§ 260. There shall be a bureau in the law department for the collection of arrears of personal taxes to be called the

“bureau for the collection of arrears of personal taxes.” The assistant corporation counsel assigned to this bureau shall give a bond to The City of New York, with one or more sureties, to be approved by comptroller and corporation counsel, in the penal sum of ten thousand dollars, conditioned for the faithful performance of the duties of the office and the payment over of all taxes collected by him, which shall be filed in the comptroller’s office, and he and his bondsman or bondsmen shall be responsible to the corporation therefor.

Presentation of claims to be pleaded.

§ 261. No action or special proceeding, for any cause whatever, shall be prosecuted or maintained against The City of New York, 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 demand, claim or claims upon which such 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 recovers judgment in his action or special proceeding he shall recover full taxable costs without regard to the amount of the judgment.]

Jurisdiction of actions against the city.

§ 262. All actions wherein The City of New York is made a party defendant shall be tried in that county within The City of New York in which the cause of action arose, or in the county of New York, subject to the power of the court to change the place of trial in the cases provided by law. [The supreme court shall have exclusive jurisdiction over all actions or special proceedings wherein The City of New York is made a party defendant. And all such actions shall be tried in that county wholly or partly embraced within The City of New York in which the cause of action arose, or in the county of New York, subject to the power of the court to change the place of trial in the cases provided by law.]

Service of process.

§ 263. All process and papers for the commencement of actions and legal proceedings against The City of New York

shall be served either upon the mayor, the comptroller or the corporation counsel.

Issuance of execution.

§ 264. No execution shall be issued upon any judgment recovered against The City of New York until after ten days' notice, in writing, of the recovery of such judgment shall have been given to the comptroller.

Bills of costs in condemnation proceedings.

§ 265. No bills of costs for fees of commissioners of estimate, compensation of clerks or assistants, or for other expenses in and about special proceedings instituted for the acquisition of the title to lands required by The City of New York for public purposes, shall, unless the same be payable by law from the fund for street and park openings, be taxed by the supreme court prior to the confirmation of the report of the commissioners of estimate appointed in such proceedings.

CHAPTER VIII.

POLICE DEPARTMENT AND BOARD OF ELECTIONS.

Title 1. Police department.

Title 2. Board of elections.

TITLE I.

Police Department.

Police commissioner [board]; salary.

§ 270. The head of the police department shall be called the police commissioner, who shall be appointed by the mayor, and shall hold office as provided in chapter four of this act. The terms of office of the members of the police board, except the president thereof, appointed pursuant to the provisions of the greater New York charter, shall cease and determine on the first day of January, nineteen hundred and two, and the president of the said police board shall thereupon become the police commissioner. The salary of said police commissioner shall be ten thousand dollars a year. The said police commissioner shall have power to appoint and at pleasure remove two deputies to be known as first deputy, and second deputy. The first deputy shall during the absence or disability of the commissioner possess all the powers and perform all the duties of the commissioner except the power of making appointments. In the absence or disability of both the commissioner and the first deputy, the second deputy shall possess all the powers and perform all the duties of the commissioner, except the power of making appointments. The commissioner shall define the duties of the deputies and may dele-

gate to either of them any of his powers except the power of making appointments. The salary of each of such deputies shall be four thousand dollars a year. [The head of the police department shall be called the police board. Said board shall consist of four persons, to be known as police commissioners of The City of New York. They shall be appointed by the mayor, and shall hold their respective offices as provided in chapter four of this act. No more than two of said commissioners shall, when either of them is appointed, belong to the same political party, or be of the same political opinion on state and national politics. The salary of each of said police commissioners shall be five thousand dollars a year.]

Police commissioner [board]; authority. [bureau of elections.]

§ 271. The said police commissioner [board] shall have cognizance and control of the government, administration, disposition and discipline of the said police department, and of the police force of said department [and it shall also have cognizance and control of the bureau of elections hereinafter mentioned, and said bureau of elections shall be a part of said police department].

Id.; to make and enforce rules and regulations.

§ 272. The said police commissioner [board] shall make, adopt and enforce such rules, orders and regulations, and do all such other acts as may be reasonably necessary to effect a prompt and efficient exercise of all powers conferred by law, and the performance of all duties imposed by law upon the said commissioner [board] or the said department, or upon any part of or person in said department. But said commissioner [board] shall do no act which is contrary to or inconsistent with this act.

Boards and officers abolished and forces consolidated.

§ 273. Except as herein otherwise expressly provided, the police department, the board of police and the offices of the police commissioners of The City of New York, provided for by the New York city consolidation act of eighteen hundred and eighty-two, and the acts amendatory thereof, the office of commissioner of police and excise of the city of Brooklyn,

the board of police commissioners for Long Island City and the board of commissioners of police for the county of Richmond are hereby abolished. The respective police forces and departments heretofore existing in the said cities and the said county, including the park police of the mayor, aldermen and commonalty of the city of New York, and the park police of the city of Brooklyn, and the police force of the New York and Brooklyn bridge are hereby consolidated into one department and force to be constituted, controlled and administered as provided in this chapter.

Police department; powers and authority transferred to.

§ 274. All the rights, powers, authority, duties and obligations, immediately heretofore by law vested in or imposed upon the police departments, or either of the boards or commissioners mentioned in the last above section, shall forthwith by force of and as an effect of this chapter be transferred to and continue in the police department created by this act except in so far as the same shall be contrary to or inconsistent with the provisions of this chapter. All the rights, powers, authority, duties and obligations relative to, or connected with the appointment, control or cognizance of any police force immediately heretofore by law vested in or imposed upon the commissioners of public parks in The City of New York, the department of parks of the city of Brooklyn, and the board of trustees of the New York and Brooklyn bridge, shall forthwith, by force of, and as an effect of this chapter be transferred to and continued in the police department created by this act, except in so far as the same shall be contrary to or inconsistent with the provisions of this chapter.

Property to vest in The City of New York and be managed by police department.

§ 275. All money, funds and property, and all rights and title to and interest in, and possession of and control over and all rights to the use and possession of any moneys, funds or property, which when this act takes effect, shall be vested in, held or exercised by the department, or either of the boards or commissioners, mentioned in section two hundred and seventy-three of this act, or which shall then be applicable to, or used for the purpose of, or in the maintenance of, or in

connection with the functions or duties of either of the respective police forces appointed by the commissioners of public parks in The City of New York, the department of parks of the city of Brooklyn, or the said trustees of the New York and Brooklyn bridge, shall forthwith by force of and as an effect of this chapter, be and become vested in The City of New York, and the same shall be held, exercised, managed, controlled, used and applied by, and under the direction of the police department created by this act until it is otherwise lawfully provided. No such money, funds or property shall, however, be used for or applied to any purpose different in kind from that for or to which the same might theretofore have been lawfully used or applied, until such different use or application shall first have been lawfully authorized.

Police force; composition.

§ 276. Until otherwise provided by the [municipal assembly] board of aldermen, upon the recommendation of the [police board,] mayor and the police commissioner, the police force in the police department created by this chapter, shall consist of the following members, to wit: A chief of police; two [five] deputy chiefs of police; fourteen [ten] inspectors of police; captains of police, not exceeding in number one to each fifty of the total number of patrolmen, except in the rural portion of the city; sergeants of police, not exceeding four in number to each fifty of the total number of patrolmen; roundsmen not exceeding four in number to each fifty patrolmen; detective sergeants to the number authorized by law; the members of the telegraph force as specified in section two hundred and seventy-seven of this act; doormen of police, not exceeding two in number to each fifty of the total number of patrolmen; surgeons of police, not exceeding forty in number, one of whom shall be chief surgeon, and patrolmen to the number of six thousand three hundred and eighty-two. The police commissioner shall appoint two deputy chiefs of police from among the five deputy chiefs of police in office, and the three deputy chiefs of police not so appointed who shall have been in said office prior to the first day of July, nineteen hundred, shall become inspectors of police with the salaries of deputy

chiefs and the rights granted to deputy chiefs in respect to the relief pension fund.

Id.; members of former forces in New York city transferred.

§ 277. The members of the police force of The City of New York, and the members of the police force appointed by the commissioners of public parks in said city, as said forces are provided for by sections two hundred and sixty-five and six hundred and ninety of the New York city consolidation act of eighteen hundred and eighty-two, and by the statutes amendatory of and supplementary to said sections, who shall be such members of said forces respectively when this act takes effect, shall be members of the police force specified in section two hundred and seventy-six of this act. The employees of the telegraph force of the police department, of the mayor, aldermen and commonalty of the city of New York who are in office when this act takes effect, shall take the same rank in the police force specified in section two hundred and seventy-six of this act, as the telegraph force of the police department of the city of Brooklyn has under existing laws; provided, however, that until otherwise ordered by the police commissioner [board], the superintendent of telegraph of the police force of the mayor, aldermen and commonalty of The City of New York shall be superintendent of telegraph for the police force specified in said section two hundred and seventy-six of this act; and the deputy superintendent of telegraph of the police force of said, the mayor, aldermen and commonalty of The City of New York, shall be deputy superintendent of telegraph in the central office in the borough of Manhattan; and the superintendent of telegraph of the police force of the city of Brooklyn shall be superintendent of police telegraph for the borough of Brooklyn.

Id.; members of former forces in Brooklyn transferred.

§ 278. The superintendent and deputy superintendent of police, and each inspector, captain, sergeant, detective-sergeant, roundsman, patrolman, doorman, bridge-keeper, police surgeon, superintendent of telegraph, and telegraph operator, who is, when this act takes effect in, of, or attached to the police force of the city of Brooklyn, or the police force appointed by the department of parks of said city, or the police force

appointed by the board of trustees of the New York and Brooklyn bridge, pursuant to section eight of chapter three hundred of the laws of eighteen hundred and seventy-five, and the acts amendatory thereof, or supplementary thereto, shall be members of the police force specified in section two hundred and seventy-six of this act.

Id.; members of former force in Long Island City transferred.

§ 279. The lawfully appointed captain, sergeant and patrolman of the police force of Long Island City, who shall be such when this chapter takes effect, shall be members of the police force, specified in section two hundred and seventy-six of this act.

Id.; members of former force in Richmond county transferred.

§ 280. The captain and each sergeant, roundsman and patrolman of the police force of the county of Richmond, or of any town or village in that part of the county of Queens included in The City of New York, as hereby constituted, shall be members of the police force specified in section two hundred and seventy-six of this act.

Police [board] commissioner; authority over members transferred by preceding sections; rank of transferred members.

§ 281. The police [board] commissioner created by this act shall have the same powers, control and authority over the members of the police force, transferred thereto by sections two hundred and seventy-seven, two hundred and seventy-eight, two hundred and seventy-nine and two hundred and eighty of this act, and over their tenure of such membership and removal therefrom, as the said [board] commissioner shall have over the members of said force, appointed thereto by [said board] him, and especially, except as otherwise provided by this chapter, to fix and assign the rank, title, duties, powers and place of service of said transferred members. Until by said [board] commissioner otherwise provided the rank, title, duties, powers and place of service of said transferred members shall be the same as they were in the police force to which they belonged before this act took effect.

Id.; authority over employes of former boards; duties and salaries of such employes.

§ 282. All clerks, matrons, secretaries, and other subordinates, assistants and employes attached to, or in the service of the department or either of the boards or commissioners specified in section two hundred and seventy-three of this act, until it shall be otherwise provided by the police [board] commissioner created by this act, shall perform like services and duties and receive therefor the same salaries or compensation as they performed and received respectively prior to this act taking effect. But such clerks, matrons, secretaries, and other subordinates, assistants and employes, their services, duties, salaries or compensation, tenure of and removal from their positions or employment shall in all respects be subject to the control and authority of the police [board] commissioner created by this act.

Id.; power to appoint and remove members and employes; salaries and fines.

§ 283. Subject to the powers by this act conferred on the board of estimate and apportionment and the [municipal assembly] board of aldermen of The City of New York, and to such other provisions of this act as may limit their power in the premises, the police commissioner [board] created by this act shall have power to appoint and remove as hereinafter provided the members of the police force specified in section two hundred and seventy-six of this act, and also such clerks, police matrons, secretaries, and other subordinates, assistants and employes, as may be reasonably necessary to the proper performance of the duties and execution of the powers and functions of the police department created by this act, or of any of the component parts thereof, and to prescribe their respective ranks and duties. [and compensation. The salary or compensation of any such members of the said police force as are specified in sections two hundred and seventy-seven, two hundred and seventy-eight, two hundred and seventy-nine and two hundred and eighty of this act, as the same is lawfully fixed at the time this chapter takes effect and immediately prior thereto, shall not be decreased.] The salary or compensation of members of the police force shall be subject to all fines, penalties, forfeitures and deductions lawfully imposed for cause.

Police force; qualifications of members; publishing names and residence of applicants and appointees.

§ 284. No person shall [ever] be appointed or reappointed 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 felony, or who cannot read and write understandingly [in] the English language, or who shall not have resided within the state one year next preceding his appointment, 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; and no [nor shall any] person who shall have been a member of the force and shall have [have resigned, or have] been dismissed therefrom, shall be reappointed. [except upon the concurring vote of all the members comprising the board to be taken by ayes and noes, and recorded in the minutes.] The name, residence and occupation of each applicant for appointment or reappointment 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.

Id.; warrant of appointment; oath.

§ 285. Every member of the police force shall have issued to him, by the police department, a proper warrant of appointment, signed by the police commissioner [president of the police board] and chief clerk or first deputy clerk of said department or of the police commissioner [board], 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 office and subscribe the same before any officer of the police department who is empowered to administer an oath.

Id.; promotions.

§ 288. Promotions of officers and members of the police force shall be made by the police commissioner [board], as provided in section [three hundred and four] one hundred

and twenty-four of this act, on [grounds] the basis of seniority, meritorious police service and superior capacity, as shown by competitive examination. Individual acts of personal bravery may be treated as an element of meritorious service in such examination, the relative rating therefor to be fixed by the municipal civil service commission. The police commissioner shall transmit to the municipal civil service commission in advance of such examination, the complete record of each candidate for promotion []; and shall be as follows: Sergeants of police shall be selected from among patrolmen assigned to duty as roundsmen, as provided in section two hundred and ninety-two of this act; captains from among the sergeants; inspectors from among captains; deputy chiefs of police from among inspectors and captains; and chief of police from among deputy chiefs, inspectors and captains, but]. No promotion shall be made, except in the case of a vacancy in the office of chief of police, unless the same is recommended by the chief of police in writing, stating his reasons for such recommendation. In case of the rejection of any recommendation for promotion, the chief of police shall submit another name within three days, and shall continue so to do until the vacancy is filled. Roundsmen shall be selected from among patrolmen of the first grade, but roundsmen may be reduced to the grade of patrolmen at any time by the police commissioner after due trial upon charges the determination of which may be reviewed by writ of certiorari. Sergeants of police shall be selected from among roundsmen who shall have served at least two years continuously as such. Captains shall be selected from among sergeants who shall have served at least three years as such. Inspectors shall be selected from among captains who shall have served at least two years as such. Deputy chiefs of police shall be selected from among inspectors who shall have served at least three years as such. The chief of police shall be appointed by the police commissioner and, if selected from the uniformed force, he shall be appointed from among the deputy chiefs of police or inspectors who shall have served at least five years as such inspector.

Id.; increase of.

§ 289. The police commissioner [board] is authorized to increase the police force by adding to the number of patrolmen from time to time, provided the board of estimate and apportionment and the [municipal assembly] board of aldermen shall have previously made an appropriation for that express purpose, such increase not to exceed one hundred and fifty in any one year. The board of estimate and apportionment and the [municipal assembly] board of aldermen may include in the annual budget from year to year, and the comptroller shall certify, as required by law, to the [municipal assembly] board of aldermen and the [municipal assembly] board of aldermen shall include in the annual tax levy an amount sufficient to provide for the compensation of the additional patrolmen authorized to be appointed pursuant to the provisions of this section.

Id.; central office bureau of detectives.

§ 290. The police commissioner [board] shall maintain a bureau which shall be called the central office bureau of detectives, and shall select and appoint to perform detective duty therein, from the patrolmen or roundsmen as many detectives, in addition to those selected and appointed to perform detective duty prior to the first day of October, nineteen hundred, who may be acting as detective sergeants on the first day of January, nineteen hundred and two (who are hereby continued in their respective offices), as the said commissioner may, from time to time, determine to be necessary to make that bureau efficient. Said detectives shall be known under and by the name of detective sergeants, and shall hold the same rank and draw the same pay as other sergeants of police and shall be eligible for promotion in the entire police force in the city, under the same rules and conditions applicable to the promotion of all other sergeants of police in said city, and shall not be reduced in rank or salary except in the manner provided by law for sergeants and other officers of the police force. [as many patrolmen as said board may, from time to time, determine to be necessary to make that bureau efficient. The patrolmen so selected and appointed shall be called detective ser-

geants, and shall be assigned to duty in that bureau, and while performing such detective duty shall be vested with the same authority and be entitled to receive and be paid the same salary as sergeants of police under this chapter; but the police board may by order, reduce to the grade of patrolman, and transfer such detective sergeants or any of them to perform patrol or other police duty, and when so transferred they shall only be entitled to receive and be paid the same rate of compensation as ordinary patrolmen of the police force under this chapter.】 Nothing in this section shall be construed to authorize the police [board] commissioner to appoint any additional patrolmen in place of said detective sergeants. 【The headquarters of said central office bureau of detectives shall be at the police headquarters in the borough of Manhattan, and a branch office thereof shall be maintained at the police headquarters in the borough of Brooklyn, and other branch offices thereof may be maintained at the police headquarters in each of the other boroughs into which The City of New York is divided by this act.】

No member of department to be interested in other office.

§ 291. Any police commissioner, 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 succeeding 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.

Chief of police; duties and powers.

§ 292. The chief of police shall be the chief executive officer of the police force. He shall be chargeable with and responsible for the execution of all laws and the rules and regulations of the department. He shall assign to duty the officers and members of the police force, and shall have power to change such assignments from time to time, whenever, in his judgment, the exigencies of the service may require such change 【provided, however, that permanent assignments of patrolmen

to duty as roundsmen shall be made by the police board on the recommendation of the chief of police, and in case of the rejection of any such assignment recommended by the chief of police, he shall within three days submit another name and continue so to do until a permanent assignment is made]. He shall have power to suspend without pay, pending the trial of charges, any member of the police force; provided, however, that no such suspension shall be continued for a period of more than ten days without affirmative action to that effect by the police commissioner [board]. If any member of the police force so suspended shall not be convicted by the police commissioner [board] of the charges so preferred, he shall be entitled to full pay from the date of suspension, notwithstanding such charges and suspension. Said chief of police may grant leaves of absence to members of the force for a period not exceeding five days. He shall report to the police commissioner [board] all changes or assignments of officers and all leaves of absence granted.

Id.; absence or disability of.

§ 293. In case of the absence or disability of the chief of police, either deputy chief of police designated by him shall discharge all the duties of the chief of police [a deputy chief of police designated by the police board, or in case no deputy chief is so designated, then a deputy chief of police, designated by the chief of police shall discharge all the duties of chief of police]; or in case each deputy chief of police be absent or disabled, or, for any good cause, is not available for such designation, then the duties of chief of police shall be performed by one of the inspectors of police to be designated by the police commissioner [board].

Police surgeons; duties and districts.

§ 294. 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 police commissioner [board]. The police commissioner [board] may, if requested by the department of health, [employ their] designate police surgeons to aid the sanitary inspectors in the discharge of their duties, under such regulations and orders as the police commissioner [board] may make and issue.

[Id.; Comptroller to pay] Payment of salaries and [discharge] obligations of department.

§ 297. [The police board through its treasurer, and in pursuance of orders, rules and regulations of the police board,] The comptroller shall pay all salaries and wages to 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 police department [;] in the same manner as salaries and wages and bills, claims and obligations of other departments are paid. But the comptroller shall pay over and advance from time to time to the police commissioner such portions of the appropriation made to the police department for contingent expenses, not exceeding ten thousand dollars at any one time, for which requisition may be made by said police commissioner. The police commissioner shall transmit to the department of finance the original vouchers for the payment of all sums of money disbursed by him on account of such contingent expenses, and no greater sum than ten thousand dollars in excess of the amount duly accounted for by said vouchers shall be advanced to said police commissioner at any one time. The police commissioner shall give a bond of ten thousand dollars, with two sufficient sureties, to be approved by the comptroller, for the faithful performance of the duties imposed and privileges conferred upon him by this section. [and the comptroller shall pay over to the treasurer of the police board on the requisition of the police board, 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 the police board, 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 police [board] commissioner 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.

Id.; copy of minutes when evidence.

§ 298. A copy of the minutes of the police commissioner [board] or of any part of said minutes, or of any order or resolution of said commissioner [board], or of the rules and regulations established by said commissioner [board or any or either of them], when certified by the police commissioner [president of said board and] or the chief clerk, or first deputy clerk [of said board or] of said police department, may be given in evidence upon any trial, investigation, hearing or proceeding in any court, or before any tribunal, commissioner or commissioners, or board, with the same force and effect as the original.

Salaries of officers and members of the force.

§ 299. [Except as otherwise provided in sections two hundred and eighty-three and two hundred and ninety of this act.] The annual salaries and compensation of the officers and members of the police force shall be as follows, to wit: Of the chief of police, six thousand dollars; of each deputy chief of police, five thousand dollars; of each inspector of police, three thousand five hundred dollars; of each captain of police, two thousand seven hundred and fifty dollars; of each police surgeon, three thousand dollars; of each sergeant of police, including detective sergeants, two thousand dollars; of each doorman, one thousand dollars; of each roundsman, one thousand five hundred dollars; and the grade and pay or compensation of patrolmen or policemen shall be as follows, to wit: All such members who are patrolmen and who shall have served five years or upwards on said force, shall be members of the first grade. All such members who shall have served on such force for less than five years and more than four years and six months, shall be members of the second grade. All such members who shall have served on such force nor less than four years and six months, and more than four years, shall be members of the third grade. All such members who shall have served on such force for less than four years and more than three years, shall be members of the fourth grade. All such members who shall have served on such force for less than three years and more than two years, shall be members of the fifth grade. All such members who shall have served on such force for less than two years and

more than one year, shall be members of the sixth grade. And all persons appointed patrolmen on or after the first day of January, eighteen hundred and ninety-eight, shall be members of the seventh grade. Whenever any member of the seventh grade shall have done service therein for one year, he shall be advanced to the sixth grade. Whenever any member of the sixth grade shall have done service therein for one year, he shall be advanced to the fifth grade. Whenever any member of the fifth grade shall have done service therein for one year, he shall be advanced to the fourth grade. Whenever any member of the fourth grade shall have done service therein for one year, he shall be advanced to the third grade. Whenever any member of the third grade shall have done service therein for six months, he shall be advanced to the second grade. And any member of said force who shall have served six months in the second grade, shall become a member of the first grade. But no such patrolman shall be so advanced as aforesaid, except after examination and approval by the police [board] commissioner of his record, efficiency, and conduct. The annual pay or compensation of the members of the police force who are patrolmen, as aforesaid, shall be as follows: For members of the first grade, at the rate of not less than one thousand four hundred dollars each; for members of the second grade, at the rate of not less than one thousand three hundred and fifty dollars each; for members of the third grade, at the rate of not less than one thousand two hundred and fifty dollars each; for members of the fourth grade, at the rate of not less than one thousand one hundred and fifty dollars each; for members of the fifth grade, at the rate of not less than one thousand dollars each; for members of the sixth grade, at the rate of not less than nine hundred dollars each; for members of the seventh grade, at the rate of not less than eight hundred dollars each. The pay or compensation aforesaid shall be paid monthly to each person entitled thereto, subject to such deductions for or on account of lost time, sickness, disability, absence, fines, or forfeitures, as the police department may, by rules and regulations, from time to time prescribe or adopt. Nothing in this section contained shall be construed to change in any way the salaries or grading, present or prospective, of the patrolmen or policemen who are or become members of

the New York police force prior to January first, eighteen hundred and ninety-eight. All other patrolmen or policemen of the various police forces consolidated into a single force by the provisions of this act, shall belong, so far as pay or compensation is concerned, to the grade indicated by the pay or compensation which they are respectively receiving on January first, eighteen hundred and ninety-eight. But nothing in this section contained shall be construed to affect in any other way the rights and privileges secured under the provisions of this act to the members of the various police forces consolidated into a single force by this act. The date for the eligibility of any member of the forces transferred to the consolidated force by sections two hundred and seventy-seven, two hundred and seventy-eight, two hundred and seventy-nine and two hundred and eighty of this act for advancement to the next grade, shall be the day of the year on which he was originally appointed to the force from which he was transferred; and any member of the forces so transferred not a member of the New York police force prior to January first, eighteen hundred and ninety-eight, whose salary falls between two grades, shall receive the salary of and be assigned to the grade next above the salary he is receiving at the time of transfer. Salaries of all officers in the forces so transferred, other than officers in the New York police prior to January first, eighteen hundred and ninety-eight, shall be equalized on the same basis. If the difference in pay is not more than fifty dollars, the pay shall be equalized at once. If the difference is more than fifty dollars, the pay shall be made uniform within three years by equal annual additions.

Police commissioner [board]; rules, etc., for government and discipline of police department and police force; trials, dismissals.

§ 300. The police commissioner [board] is authorized and empowered to make, adopt and enforce rules, orders and regulations for the government, discipline, administration and disposition of the police department and police force and the members thereof. He [It] shall have power and is authorized to adopt rules and regulations for the examination, hearing, investigation and determination of charges made or preferred against any member or members of the said police force,

except the chief of police, but no member or members of the police force except as otherwise provided in this chapter shall be fined, reprimanded, removed, suspended or dismissed from the police force until written charges shall have been made or preferred against him or them, nor until such charges have been examined, heard and investigated before the police commissioner or one of his deputies [one or more members of said board], upon such reasonable notice to the member or members charged, and in such manner of procedure, practice, examination and investigation as the said commissioner [board] may, by rules and regulations, from time to time prescribe. The trial of any member of the police force upon charges shall be held in the borough within which the accused member was serving at the time the charge was preferred. Any member of the police force who may hereafter become insane or of unsound mind, so as to be unable or unfit to perform full police service or duty, may be removed and dismissed from the police force by the commissioner [board]. The chief of police may be removed; but only upon due trial and conviction by the mayor on the charges preferred. The police commissioner may, with the approval of the mayor, retire the chief of police or any deputy chief; but the retirement, under this provision, of a chief of police who was not at the time of his appointment a member of the uniformed force, shall not entitle him to receive any compensation by way of pension, or otherwise, from the city after his retirement. [Such rules and regulations shall, as nearly as may be, provide that where a charge is preferred against any member of the police force, the investigation of such charge and the taking of testimony with reference thereto shall be at police headquarters in the borough within which the accused member was serving at the time the charge was preferred. In all cases where the offense charged is punishable by fine, the case may be fully and finally disposed of by one commissioner. Any member of the police force who may hereafter become insane or of unsound mind, so as to be unable or unfit to perform full police service or duty, may be removed and dismissed from the police force by the board. The police board may, by a unanimous vote of the board, or by a vote of a majority of its members with the

approval of the mayor, retire the chief of police or any deputy chief.]

Police commissioner, etc., may issue subpoenas; who may administer oaths.

§ 301. [Either of] The police commissioner[s] and his deputies shall have power to issue subpoenas, attested in the name of the [president of the] police [board] commissioner, and to exact and compel obedience to any order, subpoena or mandate issued by them, and to that end may institute and prosecute any proceedings or action authorized by law in such cases. He [They] or either of his deputies [them] may in proper cases issue subpoenas duces tecum. Such police commissioner [said board] may devise, make and issue process and forms of proceedings to carry into effect any powers or jurisdiction possessed by him [them]. [Each of] The police commissioner[s], the chief of police, each deputy chief of police, the chief clerk and first deputy clerk of said [police board or] police department are hereby authorized and empowered to administer oaths and affirmations in the usual or appropriate forms, to any person in any matter or proceedings authorized as aforesaid, and in all matters pertaining to the police department, or the duties of any officer or other person in matters of or connected with said department and to administer oaths of office which may be taken or required in the administration or affairs of said department, and to take and administer oaths and affirmations, in the usual or appropriate forms, in taking any affidavit or deposition which may be necessary or required by law or by any order, rule, or regulation of the police commissioner [board] for or in connection with the official purposes, affairs, powers, duties or proceedings of said police department, or of said police [board, or of any police] commissioner, or member of the police force, or any official purpose lawfully authorized by said commissioner [board]. Any person making a complaint that a felony or misdemeanor has been committed may be required to make oath or affirmation thereto, and for this purpose a police commissioner, the chief of police, the deputy chiefs of police, the chief clerk, or deputy clerks of the police department [or police board], the inspectors, captains and sergeants of police shall have power to administer oaths and affirmations.

Police [board] commissioner; punishments by; limitations of suits for reinstatements, etc.

§ 302. The police commissioner [board] shall have power, in his [its] discretion, on conviction by him [it] or by any court or officer of competent jurisdiction, of a member of the force of any criminal offense, or neglect of duty, 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 any breach of discipline, to punish the offending party by reprimand, forfeiting and withholding pay for a specified time, suspension, without pay during such suspension, or by dismissal from the force; but no more than thirty days' pay or salary shall be forfeited or deducted for any offense. All such forfeitures shall be paid forthwith to the treasurer of the department to the account of the police pension fund. The police commissioner [board] is also authorized and empowered, in his [its] discretion, to deduct and withhold pay, salary or compensation from any member or members of the police force, for or on account of absence for any cause without leave, lost time, sickness or other disability, physical or mental; provided, however, that the pay, salary or compensation so deducted and withheld shall not, except in case of absence without leave, exceed one-half thereof for the period of such absence, any act or law to the contrary notwithstanding; and said police commissioner [board] is authorized and empowered from time to time to make and prescribe rules and regulations to carry into effect and enforce the provisions of this section. No action, suit or proceeding, either at law or in equity, shall be commenced or maintained against the police department, or any member thereof, or against the police commissioner, or against the mayor, [board, police commissioners or either of them], or against The City of New York by any member or officer, or former member or officer of or belonging to the police force or department of said city to recover or compel the payment of any salary, pay, money or compensation for or on account of any service or duty, or to recover any salary, compensation or moneys, or any part thereof forfeited, deducted or withheld for any cause [or to restore or reinstate to the po-

lice force or department any member or officer thereof], unless such action, suit or proceedings shall be commenced within two years after the cause of action shall have accrued; provided that causes of action or proceedings which shall have heretofore accrued may be begun or brought within six years after the same shall have accrued and within two years after the passage of this act; but nothing in this section contained shall be construed or held to extend the time in which causes of action or proceedings which shall have heretofore accrued must be brought, and no proceeding shall be brought to procure the restoration or reinstatement to said police force or department of any member or officer thereof, unless said proceeding shall be instituted within four months after the decision or order sought to be reviewed. Said proceeding when so brought shall be placed upon the calendar by the party instituting the same, for hearing, for a term of the court not later than the second term after the filing of the answer or return in said proceeding, and of service of notice of said filing upon the party instituting said proceeding. And in the event of the failure of the party instituting the said proceeding to place the said proceeding upon the said calendar, then the said proceeding shall be dismissed for want of prosecution upon application to that effect by the corporation counsel, unless the court for good and sufficient cause shall otherwise order.

Police force; resignations and absences on leave.

§ 303. No member of the police force, under penalty of forfeiting the salary or pay which may be due him, shall withdraw or resign, except by permission of the police commissioner [board]. Absence, without leave, of any member of the police force for five consecutive 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 and be dismissed therefrom without notice. No leave of absence exceeding twenty days in any one year shall hereafter be granted or allowed to any member of the police force, except upon the condition that such member shall

waive and release not less than one-half of all salary, pay or compensation and claim thereto [or any part thereof] during such absence.

Police commissioner [board]; rewards to informers.

§ 305. The police commissioner [board] 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 homicide, arson, or receiving stolen goods, knowing them to be stolen; and to pay such awards to such persons as shall give such information. But no such reward shall be offered unless there be an unexpended appropriation therefor made by the board of estimate and apportionment, which shall make the necessary appropriation for such purpose.

Police force; gratuities and political contributions forbidden; may be permitted to obtain rewards.

§ 306. No member of the police force or employee of the police department shall, under any pretense whatsoever, share in, for his own benefit, any present, fee, gift or emolument for police services, or for services of the police department or any member thereof, additional to his regular salary, pay or compensation. The police commissioner [board] for meritorious and extraordinary services rendered by any member of the police force in due discharge of his duty, may permit such member of the police force to retain for his own benefit any reward or present, or some part thereof, tendered him therefor; and it shall be cause for removal from the police force for any member thereof to receive any such reward or present without notice thereof to the police commissioner [board]. Upon receiving said notice, the police commissioner [board] may either order the said member to retain the same, or shall dispose of it for the benefit of the police pension fund. [No] Neither the police commissioner nor any deputy commissioner nor any person in the police force shall be permitted to contribute any moneys, directly or indirectly, to any political fund, or to join or be or become a member of any political club or association or any club or association intended to affect legislation for or on behalf of

the police department or any member thereof, or to contribute any funds for such purpose.

Id.; detail of policemen at polls.

§ 307. It shall be the duty of the chief of police to detail, or to cause to be detailed on election day, at least two patrolmen at 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 summarily to remove any such booth, box or structure, or to close and prevent the use thereof.

Id.; special patrolmen; when may be appointed; military assistance.

§ 308. The police commissioner [board] 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 mayor, or, in case of his failure so to do, the governor may demand the assistance of the militia of the state within the city, or of any brigade, regiment or company thereof, by order in writing served upon the commanding officer of any brigade and such commanding officer shall obey such order. Special patrolmen, appointed in pursuance of law, may be dismissed by order of the police commissioner [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 police department in the same manner as regular patrolmen. Every such special patrolman shall wear a badge, to be prescribed and furnished by the police commissioner [board]. No transfer, detail or assignment to special duty of any member of the police force, except in cases authorized or required by law, shall hereafter be made or continued, except for police reasons and in the interests of police service; provided, however, that the chief of police may, whenever the exigencies of the case require it, make detail to special duty for a period not exceeding three days, at the expiration of which the member or members so detailed shall report for duty to the officer of the command from which the detail was made. The police commissioner [board], when-

ever expedient, may on the application of any person or persons, corporation or corporations, showing the necessity therefor, [detail regular patrolmen of the police force, or] appoint and swear any number of special patrolmen to do special duty at any place in The City of New York upon the person or persons, corporation or corporations by whom the application shall be made, paying, in advance such [regular or] special patrolmen for their services, and upon such [regular or] special patrolmen, in consideration of their appointment, signing an agreement in writing releasing and waiving all claim whatever against the police department and The City of New York for pay, salary or compensation for their services and for all expenses connected therewith; [regular patrolmen so detailed shall be paid at the same rate as provided for patrolmen in this act;] but the [regular or] special patrolmen so appointed shall be subject to the orders of the chief of police and shall obey the rules and regulations of the police department and conform to its general discipline and to such special regulations as may be made [and shall wear such dress or emblems as the department may direct] and shall during the term of their holding appointment possess all the powers and discharge all the duties of the police force, applicable to regular patrolmen. The special patrolmen so appointed may be removed at any time by the police commissioner [board] without assigning cause therefor, and nothing in this section contained shall be construed to constitute such special patrolmen members of the police force, or to entitle them to the privilege of the regular members of the force, or to receive any salary, pay, compensation or moneys whatever from the said police department or The City of New York, or to share in the police pension fund.

Police [board] commissioner; detail persons to attend courts.

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

Police department to co-operate with department of health.

§ 310. It shall be the duty of the police department (and of its officers and men, as said police [board] commissioner shall direct) to promptly advise the department of health of all threatened danger to human life and health, and of all matters thought to demand its attention, and to regularly report to said department of health all violations of its rules and ordinances, and of the health laws, and all useful sanitary information. Said department, 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 police department, 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 department of health (made pursuant to the power of said department of health), upon the same being received in writing and duly authenticated as said department of health may direct. Said police department is authorized to employ and use the appropriate persons and means, and to make the necessary 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 department of health are paid. In and about the execution of any order of the department of health, or of the police department made pursuant thereto, police officers and policemen shall have as ample power and authority as when obeying any order of or law applicable to the police department; [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 police department and not to the department of health. The department of health may, with the consent of the police department, impose any portion of the duties of subordinates in said department upon subordinates in the police department.

Police force; arrests for violation of health laws.

§ 311. Any member of the police force may arrest without warrant 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 nineteen of this act, or by any

law or by any ordinance the authority to enact which is given by this act or any other statute or who shall, in such presence, resist or be engaged in resisting the lawful enforcement of any such law or ordinance or any official order made pursuant to any statute of this state. And any person so arrested shall thereafter be treated, disposed of and punished as any other person duly arrested for a misdemeanor unless other provision is made for the case by law.

Id.; detail of officers and men to assist department of health.

§ 312. The police commissioner [board], upon the requisition of the board of health, shall detail to the service of the said department of health for the purpose of the enforcement of the provisions of the sanitary code, and of the acts relating to tenement and lodging houses, not less than fifty nor more than one hundred suitable officers and men of experience of at least five years' service in the police force [, provided that the department of health shall pay monthly to the police department a sum equal to the pay of all officers and men so detailed]. At least thirty of the officers and men so detailed shall be employed exclusively in the enforcement of the laws relating to tenement and lodging houses. These officers and men shall belong to the sanitary company of police, and shall report to the board of health. The board of health may report back to the police department for punishment any member of said company guilty of any breach of order or discipline, or of neglecting his duty, and thereupon the police commissioner [board] shall 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 police department, but at any time the board of health may object to any member of said sanitary company on the ground of inefficiency, and thereupon another officer or man shall be detailed in his place.

Id.; detail of officers and men to assist the department of public parks.

§ 313. The police commissioner [board], upon the requisition of [either of the commissioners of parks] the park board, shall from time to time detail to the service of the department of parks [in the borough or boroughs under the charge of such commissioner], for the enforcement of the park ordinances and for the maintenance of good order in the parks, so many

suitable officers and men as in the judgment of the police commissioner [department] are necessary. Such officers and men shall continue to be in all respects an integral part of the police force of the city and shall be paid out of the funds appropriated for the support of the police department. These officers and men shall constitute the park police so long as their detail lasts, and shall report to the park commissioner in charge of the parks in which they serve. Each commissioner of parks may report back to the police department for punishment any member of said park police force guilty of any breach of orders or discipline, or of neglecting his duty, and thereupon the police commissioner [department] may detail another officer or man in his place; and the discipline of the said members of the park police shall be in the jurisdiction of the police department, but at any time either commissioner of parks may object to the inefficiency of any member of said park police serving in any park under his charge and thereupon another officer or man may be detailed in his place.

Id.; detail of officers and men to assist the department of bridges.

§ 314. The police commissioner [board], upon the requisition of the commissioner of bridges shall from time to time detail to the service of the department of bridges for the enforcement of the ordinances regulating travel over any of the bridges and for the maintenance of good order thereon, so many suitable officers and men as in the judgment of the police commissioner [department] are necessary. Such officers and men shall continue to be in all respects an integral part of the police force of the city and shall be paid out of the funds appropriated for the support of the police department. These officers and men shall constitute the bridge police so long as their detail lasts, and shall report to the commissioner of bridges. The commissioner of bridges may report back to the police commissioner [department] for punishment any member of said bridge police force guilty of any breach of orders or discipline, or of neglecting his duty, and thereupon the police commissioner [department] may detail another officer or man in his place; and the discipline of the said members of the bridge police shall be in the jurisdiction of the police department, but at any time the commissioner of bridges

may object to the inefficiency of any member of said bridge police and thereupon another officer or man may be detailed in his place.

Id.; duties of.

§ 315. It is hereby made the duty of the police department and 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; regulate the movement of teams and vehicles in streets, bridges, squares, parks and public places, 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 and disorderly conduct or practices therein; enforce and prevent the violation of all laws and ordinances in force in said city; and for these purposes, to arrest all persons guilty of violating any law or ordinance for the suppression or punishment of crimes or offenses.

Id.; general powers over certain trades.

§ 316. The chief of police and each deputy chief of police, and each inspector in his district, and each captain of police within his precinct shall possess powers of general police supervision and inspection over all licensed or unlicensed pawnbrokers, venders, junkshop keepers, junk-boatmen, cartmen, dealers in second-hand merchandise, intelligence-office

keepers, and auctioneers, within the said city; and in the exercise of said supervision, may from time to time empower members of the police force to fulfill such special duties in the aforesaid premises as may be from time to time ordained by the police board. The said chief of police and each deputy chief of police, and each inspector in his district 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 chief, shall be authorized] and to examine property alleged to be pawned, pledged, deposited, lost or stolen, in whosoever possession said property may be; but no such property shall be taken from the possessor thereof without due process or authority of law.

Id.; may examine pawnbrokers' books.

§ 317. The chief of police, deputy chiefs of police, inspectors 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 chief of police or a deputy chief of police, or an inspector of police, or a 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.

Id.; suppression of gaming and other houses.

§ 318. [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 chief of police or to a deputy chief 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 gambling-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 chief of police or a deputy chief 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 chief of police or deputy chief 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 police commissioner [board] shall direct.

Police [board] commissioner; to furnish station houses, etc., and fix boundaries of precincts; headquarters.

§ 320. The police commissioner [board] shall from time to time with the authority of the [municipal assembly] commissioners of the sinking fund, 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. The said police [board] commissioner is hereby authorized and empowered to furnish horses and wagons, to be known as patrol wagons, which said horses and wagons shall be under the custody, control and care of said police de-

partment, for the exclusive use thereof. The board of estimate and apportionment and the [municipal assembly] board of aldermen are directed to appropriate a sufficient sum of money in each and every year, for the purpose of furnishing such horses, wagons and apparatus connected therewith, and the maintenance thereof, and for the other purposes authorized by this section. The number and boundaries of the precincts shall be fixed by the police commissioner [board.] There [shall] may be one headquarters or central station, established and located by said police [board] commissioner in [each] any borough into which The City of New York is divided by this act. [A deputy chief of police shall be assigned to duty by the police board at police headquarters in the borough of Brooklyn, and, in the discretion of the police board, a deputy chief of police may be assigned to duty at police headquarters in each of the other boroughs.] The said police [board] commissioner shall apply to and use for the purposes mentioned in this section, the property and premises which shall come into [their] his possession, or under [their] his control, by virtue of section two hundred and seventy-five of this act, so far as suitable for the purpose in [their] his judgment, and available therefor.

Id.; to provide accommodations for detention of witnesses.

§ 321. The police commissioner [board] shall, where not otherwise provided by law, and as authorized by the [municipal assembly] board of aldermen, provide suitable accommodations and supplies for the detention of witnesses who are unable to furnish security for their appearance in criminal proceedings, other than children actually or apparently under the age of sixteen years, 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 it shall be the duty of all magistrates, when committing witnesses in default of bail, to commit them to such house for detention of witnesses. The board of estimate and apportionment and the [municipal assembly] board of aldermen shall in each and every year appropriate a sufficient sum of money to defray

the expenses authorized by this section. And said police [board] commissioner shall apply to and use for such purposes the property and premises which shall come into [their] his possession or under [their] his control by section two hundred and seventy-five of this act, so far as the same may be available, and, in [their] his judgment, suitable therefor.

Id.; may maintain and operate telegraph and telephone lines, and use same in assisting department of health.

§ 323. The police commissioner [board] shall have power to erect, operate, supply and maintain, under the general laws of the state relating to telegraphs, all such lines of telegraph and telephone to and between such places in the city as for the purposes and business of the police the commissioner [board] shall deem necessary. The police commissioner [board] may procure all instruments, fixtures, property and materials for the purpose above mentioned, and control the same, but the cost thereof shall be chargeable to general expenses of police. The police commissioner [board] is hereby permitted to use the said telegraph and telephone lines to aid [it] him 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.

Id.; may use boats; establish mounted patrol, sell old property, etc.

§ 324. In the performance of police service in any precinct or precincts, comprising waters of the harbor, the police commissioner [board] may procure and use and employ such rowboats, steamboats, and boats propelled by other power as shall be deemed necessary and proper. In rural or sparsely inhabited precincts he [it] may establish a mounted patrol and procure and use and employ so many horses and equipments as shall be requisite for the purpose; and he [it] shall procure and cause to be used teams and vehicles to transport prisoners, supplies and property, whenever the use of teams and vehicles for such purposes shall be proper and tend to preserve the public peace and decency. The police commissioner [board] may sell and dispose of, in accordance with law, any personal property owned or used in the department, whenever such property shall have become old and unfit and

shall not be required for service, and he [it] shall have authority to detail and employ patrolmen in any duty or service, other than patrol duty, which may be necessary and proper to enable the department to exercise the powers and perform the duties and business imposed and required by law.

Stolen property; property clerk; employment of and duties.

§ 331. The police commissioner [board] shall employ some person as clerk, who shall be designated property clerk, 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 magistrate or officer, shall be, by such member or magistrate, or by order of said court, given into the custody of and kept by the said property clerk. All such property and money shall be described and registered by said property clerk in a book kept for that purpose, which shall contain the name of the owner or claimant 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, a description thereof, the names of all claimants thereto, and any final disposition of such property or money. The said police commissioner [board] 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, but all animals strayed, lost or stolen, which shall come into the possession of the said property clerk shall by him be transferred and sent to the public pound, in said city, anything herein contained to the contrary notwithstanding.

Id.; return of property to person accused.

§ 332. Whenever property or money taken from any person arrested shall be alleged to have been feloniously obtained, or to be the proceeds of crime, and brought, with all ascertained claimants thereof, 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.; claim to by another person.

§ 333. 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 and until lawfully disposed of.

Unclaimed, lost, stolen, etc., property, to be registered and advertised.

§ 334. 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.

Id.; to be sold if unclaimed.

§ 335. If the 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 the same to the property clerk. The property so delivered to said property clerk, and all such other property, securities, moneys, things, or choses in action, 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, may 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 pension fund. No property shall be delivered to the property clerk or at the central office of the police department, except as provided by law.

Stolen property desired as evidence in criminal court.

§ 336. 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.

Police force; arrests without warrant.

§ 337. 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 made by lawful authority. 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.

Id.; returns of arrests; accused to be taken before magistrate.

§ 338. 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 regu-

lations of the police department, 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 ten days' fine, or dismissal from the force, at the discretion of the police [board] commissioner 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 precinct or station-house 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 police [board] commissioner, 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.

Penalty for personating policeman, and for willful neglect of police.

§ 339. 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, or the forfeiture of his position, for any member of the police force to wilfully neglect to make any arrest for an offense against the law of the state, or any ordinance in force in The City of New York, [or]; and it shall be a misdemeanor, punishable in like manner, for any person not a member of the police force to falsely represent himself as being such a member, with a fraudulent design upon persons or property, or upon any day or time to have, use, wear or display, without specific authority from the police department, any uniform, shield, buttons, wreaths, numbers or other insignia or emblems in any wise resembling such as are worn by members of the police force; and the said police department is hereby authorized and directed, from time to time, to prescribe the uniform, shields, emblems, insignia and weapons to be worn, displayed and used, and to regulate the wearing, display and use thereof, by any and all persons, excepting marshals and the sheriff, his under sheriff and deputies authorized under

the laws of this state, to make arrests for any cause in The City of New York.

Misdemeanor for persons not members of police force to serve criminal process.

§ 340. 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 United States marshal, or other peace officer of this state, 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.

Exemption from military and jury duty, and civil process.

§ 341. 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.

Steam boilers; inspection of; not to be operated without certificate.

§ 342. Every owner, agent or lessee 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 in such form as may, by rules and regulations to be made therefor by the police commissioner [board,] be provided, report to the said department the location of each 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 police commissioner [board] shall proceed to inspect such steam 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 atmospheric and hydrostatic pressure and the strength and security of each 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 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. Every owner, agent or lessee of a steam boiler or boilers in use in The City of New York shall, for the inspection and testing of such or each of such boilers, as provided for in this act, and upon receiving from the police department a certificate setting forth the location of the boiler inspected, the date of such inspection, the persons by whom the inspection was made, and the limit of steam pressure which shall be applied to or upon such boiler or each of such boilers, pay annually to the police commissioner [treasurer of the police department] for each boiler, for the use of the police pension fund, the sum of two dollars, such certificate to continue in force for one year from the granting thereof when it shall expire, unless sooner revoked or suspended. Such certificate may be renewed upon the payment of a like sum and like conditions, to be applied to a like purpose. It shall not be lawful for any person or persons, corporation or corporations, to have used or operated within The City of New York any steam boiler or boilers except for heating purposes and for railway locomotives, without having first had such boiler or boilers inspected or tested and procured for such boiler or each of such boilers so used or operated the certificate herein provided for. The superintendent and inspectors of boilers, in the employ of the police department, in the city of Brooklyn, and the boiler inspectors in Long Island City, shall continue to discharge the duties heretofore devolved upon them, subject, however, to removal for cause, or when they are no longer needed.

Id.; no person to use, or act as engineer for, without certificate.

§ 343. It shall not be lawful for any person or persons to operate or use any steam boiler to generate steam except for railway locomotive engines, and for heating purposes in private dwellings, and boilers carrying not over ten pounds of

steam and not over ten horse-power, or to act as engineer for such purposes in The City of New York without having a certificate of qualification therefor from practical engineers detailed as such by the police department, such certificate to be countersigned by the officer in command of the sanitary company of the police department of The City of New York and to continue in force one year, unless sooner revoked or suspended. Such certificate may be revoked or suspended at any time by the police commissioner [board] upon the report of any two practical engineers, detailed as provided in this section, stating the grounds upon which such certificate should be revoked or suspended. Where such certificate shall have been revoked, as provided in this section, a like certificate shall not in any case be issued to the same person within six months from the date of the revocation of the former certificate held by such person.

Id.; record of inspections to be kept.

§ 344. A correct record in proper form shall be kept and preserved of all inspections of steam boilers made under the direction of the police board, 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 department, after inspection, to be insecure or dangerous, the department may 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 police department and all persons prevented from using the same, and in cases deemed necessary, the appliances, apparatus or attachment for the limitation of pressure may be taken under the control of the said police department.

Id.; over-pressure forbidden; owner neglecting to report boiler.

§ 345. It shall not be lawful for any person or persons to apply or cause 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 police department 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.

[Id.:] Special patrolmen for district telegraph companies.

§ 350. The police commissioner [board] is hereby authorized, in addition to the police force now authorized by law, to appoint a number of persons, not exceeding [two] three 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 this may be limited by the regulations of the police commissioner [board], and they shall be subject to the supervision and control of the police department. No person shall be appointed as such special patrolman who does not possess the qualifications which may be required by the police commissioner [board] for such 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 police commissioner [board] 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 police department. 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 police department for, or by reason of, the services of the persons so as aforesaid appointed.

Police pension fund; police [board] commissioner trustee[s] of; powers over.

§ 351. The police commissioner [board] shall be the trustee[s] of the police pension fund hereinafter mentioned, and [the treasurer of said board] shall be treasurer of the pension fund. He shall, before entering upon his duties as treasurer thereof, execute and deliver to the comptroller of The City of New York [said board], a bond in the penal sum of one hundred thousand dollars, to be approved by the comptroller of The City of New York, and conditioned for the faithful discharge of his duties, and that he shall pay over and account for all moneys and property which shall come into his hands as such treasurer. Such trustee[s] shall have charge of and administer said funds, and from time to time invest the same, or any part thereof, as he [they] shall deem most beneficial to said fund, and he is [they are] empowered to make all necessary contracts and take all necessary and proper actions and proceedings in the premises, and to make payments from such fund of pensions granted in pursuance of this act, and also pensions now charged on said fund or any part thereof by or under existing laws, and said trustee[s] shall be the legal successor[s] of the trustee or trustees of the police life insurance fund, and of any police pension fund heretofore existing within the limits of The City of New York as constituted by this act, including the pension fund of the park police of the mayor, aldermen and commonalty of the city of New York, and the pension fund of the park police of the city of Brooklyn. The said trustee[s] may, and he is [they are] authorized and empowered, from time to time to establish such rules and regulations for the disposition, investment, preservation and administration of the police pension fund as he [they] may deem best. He [They] shall report in detail to the [municipal assembly] board of aldermen of The City of New York, annually, in the month of January, the condition of the police pension fund and the items of receipts and disbursements on account of the same. No payments whatever shall be allowed or made by said trustee[s] from said fund as reward, gratuity or compensation to any person for salary or services rendered [.] to or for said trustee[s], except payment of legal expenses.] On or before the first day of

February of each year, the trustee shall make a verified report to the mayor of his proceedings as such trustee, containing a statement of all receipts and disbursements on account of said fund, together with the names and residences of each beneficiary and the amounts paid to such beneficiary for or on account of said fund. There shall be an auditing committee consisting of three members to be appointed by the mayor as follows: two members to be selected from among the officers and members of the uniformed force of the police department and one member to be selected from the retired members of the police department. It shall be the duty of this committee on or before the first day of March in each year to examine the condition of said relief fund and to audit the account of the said trustee.

Id.; funds to be paid trustees; exemption from execution and process; false swearing in pension claims.

§ 352. The said police pension funds existing in said city of New York as constituted by this act, or in any part thereof when this act takes effect, and all moneys, bonds, investments, securities, revenues and incomes thereof, or belonging thereto, in whose hands soever or wherever the same may be, shall be paid over and delivered on demand to the police commissioner.

[said trustees of the pension fund as constituted by this act.] The moneys, securities and effects of the police pension fund, and all pensions granted and payable from said fund shall be and are exempt from execution and from all process and proceedings to enjoin and recover the same by or on behalf of any creditor or person having or asserting any claims against, or debt or liability of, any pensioner of said fund. Every person who knowingly or wilfully in any wise procures the making or presentation of any false or fraudulent affidavit or affirmation concerning any claim for pension or payment thereof shall in every such case forfeit a sum not exceeding two hundred and fifty dollars, to be sued for and recovered by and in the name of the said trustees, and, when recovered, to be paid over to and thereupon become a part of the said police pension fund. Any person who shall wilfully swear falsely in any oath or affirmation in obtaining or procuring any pension or payment

thereof, under the provisions of this chapter, shall be guilty of perjury.

Id.; of what it consists.

§ 353. The said police pension fund shall consist of:

1. The capital, interest, income, dividends, cash, deposits, securities and credits formerly belonging to the police life insurance fund, and any police pension fund, existing as aforesaid with the addition thereto, from time to time, of

2. All forfeitures imposed by the police department from time to time, upon or against any member or members of the police force; and of

3. All rewards, fees, gifts, testimonials and emoluments that may be presented, paid or given to any member of the police force on account of police services, except such as have been or shall be allowed by the police commissioner [department] to be retained by the said members, and also all gifts or bequests which may be made to the said pension fund, or to the said police commissioner [board] as trustee[s] thereof.

4. All lost, abandoned, unclaimed, or stolen money remaining in the possession of the property clerk of the police department for the space of one year, and for which there shall be no lawful claimant, and all moneys arising from the sale by said property clerk of unclaimed, abandoned, lost or stolen property, and all moneys realized, derived or received from the sale of any condemned, unfit or unserviceable property belonging to or in the possession or under the control of the police department; and of

5. All moneys, pay, compensation or salary, or any part thereof forfeited, deducted or withheld from any member or members of the police force on account of absence for any cause, lost time, sickness or other disability, physical or mental, to be paid monthly by the comptroller [treasurer of the police board] to the police pension fund.

[6. All moneys derived or received from any licenses or certificates granted or given under section three hundred and forty of this act.]

6. [7.] Any sum out of or share of excise moneys derived from the granting of licenses or permission to sell strong or spirituous liquors, ale, wine or beer, or out of or of any moneys paid for taxes upon the business of trafficking in or selling or

dealing in strong or spirituous liquors, ale, wine or beer, which by law was, at the time of the taking effect of this act, applicable to or appropriated to any police pension fund then existing within the limits of The City of New York, as constituted by this act, and such sum or share shall be paid in equal quarterly installments by the comptroller of The City of New York, or other person or officer having the legal custody thereof, to the police commissioner [treasurer of the police pension fund] without any action or authority of or from any other official body or officer.

7. [8.] All moneys received or derived from the granting or issuing of permits to carry pistols in said city, and no permit shall be granted or issued to any person except upon the payment of two dollars and fifty cents in advance to the chief of police, nor shall any such permit continue in force for more than one year, when another may be issued from year to year, upon the payment of a like sum. The chief of police is authorized to grant and issue permits for such purpose in proper cases, upon the payment of the sum aforesaid, and all such moneys shall be paid over to the treasurer of the police pension fund.

8. [9.] All moneys derived or received from the granting or issuing the permits, or the giving of permission to give masked balls, entertainments or parties, or either of them, in The City of New York. No masquerade or fancy dress ball, or other entertainment, shall be held, given or permitted in The City of New York, except upon condition that a license fee therefor of not less than five dollars nor more than one hundred dollars shall first be paid to the police department who are authorized to demand and receive the same for the benefit of the police pension fund.

9. [10.] A sum of money equal to but not greater than two per centum of the monthly pay, salary or compensation of each member of the police force, which sum shall be deducted monthly by the comptroller [treasurer of the police board] from the pay, salary, or compensation of each and every member of the police force and the said [treasurer of said board] comptroller is hereby authorized, empowered and directed to deduct the said sum of money as aforesaid and forthwith to pay the same to the treasurer of the trustees of the police pension fund.

10. [11.] Any and all other moneys and funds which, but for the passage of this act, would have been part of or applicable to any police pension fund at the time this act takes effect or thereafter within the limits of The City of New York as constituted by this act.

11. [12.] And any and all unexpended balances of appropriation or amounts estimated, levied, raised or appropriated for the payment of salaries or compensation of members of the police force within said city of New York remaining unexpended or unapplied after allowing all claims payable therefrom; provided, however, that whenever, at the end of any fiscal year, the surplus in the police pension fund shall exceed the sum of two hundred and fifty thousand dollars, over and above all charges then existing against the same, such unexpended balances, or so much thereof as shall not be required to bring the surplus up to the sum of two hundred and fifty thousand dollars, shall be transferred to the general fund for the reduction of taxation. And the comptroller [police board may, and it] is hereby authorized to pay over to the police pension fund such unexpended balances or any part thereof, at any time after the expiration of the year for which the same were made and appropriated, and after allowing sufficient to satisfy all claims payable therefrom as aforesaid.

12. [13.] In case the amount derived from the different sources mentioned and included in this section shall not be sufficient at any time to enable the police commissioner [department] to pay in full the pensions which have been or which may hereafter be granted, it shall be the duty of the police commissioner [department] each year at the time of making up the departmental estimate, to prepare a full and detailed statement of the assets of said police pension fund and the amount which is required to pay in full all such pensions and to present the same to the board of estimate and apportionment together with a statement of the amount of money required to enable the said commissioner [board] to pay the said pensions in full. It shall be the duty of said board of estimate and apportionment and the board of aldermen [municipal assembly] to make an appropriation sufficient to provide for such deficiency and the amount so appropriated

shall be included in the tax levy, and the comptroller shall pay over the money to the police commissioner. [treasurer of the police pension fund.]

13. [14.] And the said police commissioner [board, as trustees of the police pension fund,] is hereby authorized and empowered to take and hold, as trustee[s] of such fund, any and all gifts or bequests which may be made to such fund.

Id.; pensions classified.

§ 354. The police commissioner [board] shall have power, in his [its] discretion, to retire and dismiss from membership in the said police force, and thereupon to grant pensions to, as hereinafter provided, any member of the police force of said city who shall have become disabled, physically or mentally, or superannuated by age so as to be unfit for police duty, and to widows and orphans of such members to be paid from the police pension fund [to the trustees thereof,] as follows:

1. To the widow of any member of any police force within the limits of said city, who shall have been killed while in the actual performance of 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 who shall hereafter die after ten years of service in any police force within the limits of The City of New York, as constituted by this act, or who shall have been retired upon a pension, if there be no child or children under eighteen years of age of any such member, the sum of not exceeding three hundred dollars per annum; but if there be any such child or children of such member under the age aforesaid, then the said sum may be divided between such widow, child or children in such proportions and in such manner as the said trustee may direct; provided, however, that the foregoing provision shall not be applicable to the widow, child, or children of any member of any police force within the limits of said city who shall have been killed or died prior to the taking effect of this act, unless such widow, child or children would have been entitled to a pension under the laws in force at that time; and provided further that in no event shall such widow, child or children receive a greater pension than she, it or they would have been entitled to under the laws in force immediately prior to the taking effect of this act.

2. Subject to the like limitations, to any child or children under eighteen years of age of such member killed or dying as aforesaid or pensioner 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.

3. Subject to the like limitations, to any such member of any such police force who, whilst in the actual performance of 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.

4. To any such member of the said police force who shall, after ten years, and less than twenty-five years' membership in any such police force, become superannuated by age, permanently insane or mentally incapacitated, or disabled physically or mentally so as to be unfitted or unable to perform full police duty by reason of such disability or disease contracted without misconduct on his part, a sum not to exceed one-half nor less than one-fourth of his rate of compensation per annum.

Id.; when members of force entitled to pension; amount and duration.

§ 355. Any member of the police force being of the age of fifty-five years who has or shall have performed duty on such police force as aforesaid for a period of twenty years or upwards, upon his own application in writing, may, or upon a certificate of so many of the police surgeons as the police commissioner [board] may require, showing a member of whatever age who has served twenty years is permanently disabled, physically or mentally so as to be unfit for duty, shall, by order of the police commissioner [board], be relieved and dismissed from said force and service and placed on the roll of the police pension fund, and awarded and granted, to be paid from said pension fund, an annual pension during his lifetime of a sum not less than one-half of the full salary or compensation of such member so retired; and any member of the police force who has, or shall have performed duty on any such force aforesaid, for a period of twenty-five years or upwards, being of the age of fifty-five

years, or any member of any such police force who is an honorably discharged soldier or sailor from the army and navy of the United States in the late civil war, who shall have reached the age of sixty years, or any such soldier or sailor who has performed duty on any such force for a period of twenty years, upon his own application in writing, provided there are no charges against him pending, must be relieved and dismissed from said force and service by the department and placed on the roll of the police pension fund and awarded and granted, to be paid from said pension fund, an annual pension during his lifetime of the sum not less than one-half of the full salary or compensation of such member so retired; and the said commissioner [department] may in like manner relieve and dismiss from the service and place on the roll of the police pension fund, and grant and award a pension to any member of said force other than an honorably discharged soldier or sailor of the Mexican or late civil war who shall have reached the age of sixty years. The said police commissioner [department] shall award and grant pensions to the chief of police of three thousand dollars; to each deputy chief of police, twenty-five hundred dollars; to each inspector, seventeen hundred and fifty dollars; to each captain of the police, thirteen hundred and seventy-five dollars, and to each sergeant and detective sergeant of police hereafter relieved and dismissed from said force and service and placed on the roll of the pension fund, as hereinbefore provided, the sum of one thousand dollars per annum hereafter, and to each captain of police heretofore relieved and dismissed from said force and placed on the roll of the police pension fund, as hereinbefore provided, who, at the time when he was so relieved and dismissed and at the time when he was so placed on the roll of said pension fund, was receiving an annual salary of twenty-seven hundred and fifty dollars, the sum of thirteen hundred and seventy-five dollars per annum hereafter. Pensions granted under this section shall be for the natural life of the pensioner, and shall not be revoked, repealed or diminished. In case any member shall have voluntarily left any such police force, and entered into the United States service, and served in the war of the rebellion, in the army or navy, and received an honorable discharge, and afterwards shall have been reinstated or reappointed in

the police force, the time of his service in the army or navy shall be considered as continuous service in the police force. Pensions may, in the discretion of the said police commissioner [department] be continued and paid to the widows and children, or, if no widow, to the child or children while under the age of eighteen years of any member of the police force to whom pensions shall have been granted, provided, however, that such pension to such widows or children, as the case may be, shall, in no instance, exceed six hundred dollars per annum, and the same may, in the discretion of the said commissioner [board], be, from time to time, and at any time diminished, modified or revoked; provided, however, that no member of either of the police forces by this act consolidated, having a right to retire upon a pension at the time this act takes effect, shall be deprived of such right by reason of his remaining upon the police force, or of anything in this act contained. In determining the terms of service of any member of the police force, service in the municipal and metropolitan force, and subsequently in the police force of The City of New York, as heretofore constituted, or in any police force within the limits of The City of New York as hereby constituted, and thereafter in the police force created by this act, shall be counted and held to be service in the police force of The City of New York for all the purposes of this chapter.

Id.; when certain pensions terminate; equalizing existing pensions.

§ 356. Pensions to widows shall terminate when the widow shall re-marry, and pensions to children shall terminate whenever the children shall respectively marry or arrive at the age of eighteen years. The police commissioner [board] may, in his [its] discretion, order any pension granted, or any part thereof, to cease, or be diminished, except those pensions as to which it is otherwise provided in this act, and as therein provided; but in all such cases the said police commissioner [board] shall file with the papers [trustees] of the police pension fund a written statement of the causes which determined him [the police board] in ordering any pension so to cease or to be diminished; and nothing herein, or in any other act contained, shall render the granting of any

pension obligatory on the police commissioner [board] or chargeable as a matter of right upon said police pension fund, except as herein provided. All existing pensions lawfully granted, payable out of the police life insurance fund, or any police pension fund of which the police commissioner is [board are] made trustee[s] by this chapter, and not lawfully revoked, are continued and shall be paid out of the police pension fund in pursuance of the limitations and provisions of this chapter.

Id.; certificate of disability; department may make rules.

§ 357. No member of the police force shall be granted, awarded or paid a pension on account of physical or mental disability or disease, unless a certificate of so many of the police surgeons as the police board may require, which shall set forth the cause, nature and extent of the disability, disease or injury of such member, shall be filed in the department. And no member shall be retired upon pension or be pensioned, nor shall any pension be awarded, granted or paid except as provided in this chapter, any other law to the contrary notwithstanding. The said police department is authorized and empowered to make and adopt all such rules, orders and regulations as are or may be necessary to carry out and enforce the provisions of this act as to pensions.

Disposition of proceeds of sales.

§ [371.] 358. All moneys realized by sales under this chapter shall be paid over to the chamberlain of The City of New York, to the credit of the general fund of said city.

Designation of station houses for confinement of women.

§ [372.] 359. The police commissioner [board] shall designate one or more station houses for the detention and confinement of women under arrest in The City of New York. Such commissioner [board] may at any time designate for such purposes any additional station house or houses, or may revoke the designation of any station house or houses theretofore designated, provided that at least one such station house shall at all times be so designated for such purpose in such city. In every station house to which police matrons are appointed toilet accommodations shall be

provided for such matrons, which accommodations shall be wholly separate and apart from the toilet accommodations provided for prisoners, or for the other officers attached to such station house.

Appointment of police matrons.

§ [373.] 360. The police commissioner [board] shall appoint for each station house designated in the last section, not more than two respectable women, who shall be known as police matrons, in the same manner and under restrictions governing the appointment of patrolmen so far as the same may be applicable, except that any rule or regulation as to the age of a person appointed patrolman shall not apply to matrons appointed under this act. No woman shall be appointed a police matron, unless suitable for the position and recommended therefor in writing by at least twenty women of good standing, residents of The City of New York. Police matrons shall be appointed to station houses to which police courts are attached and to station houses which are in close proximity to a police court. [In case there is no police court in close proximity to a station house in said city, then police matrons may be appointed to any station house therein.]

Terms of office, removal, salary.

§ [375.] 361. Police matrons shall, upon appointment, hold office until removal, and they may be removed at any time, by the authority appointing them, under the regulations prescribed for the removal of patrolmen. Immediately upon the death, resignation or removal of a police matron, her successor shall be appointed in the manner hereinbefore provided. A police matron shall receive the same salary as the doorman in the station house to which she may be appointed.

Duties of Police Matrons.

§ [376.] 362. When only one police matron is attached to a police station, she shall reside there, or within a reasonable distance therefrom, and shall hold herself in readiness to respond to any call therefrom at any hour, day or night, and each matron shall, during such hours as may be fixed by the

police commissioner [board], remain in such station and hold herself in readiness to respond to any call therefrom. So long as any woman is detained or held under arrest in a police station to which a matron is attached, it shall be the duty of such matron to remain constantly thereat ready for service; or, if there be more than one matron attached to such station then one of them shall be constantly ready for service. A police matron shall, subject to the officer in charge of such station house, have the immediate care and charge of all women held under arrest in the station to which she is attached, and she may at any time call upon the officer in command of such station for assistance. She shall be subject to the authority of the police commissioner [board] and to the rules and regulations prescribed by such authority; but at the station where she may be appointed on duty she shall be subject only to the authority of the officer in command thereof.

Police [board] commissioner to provide accommodations for women.

§ [377.] 363. It shall be the duty of the police [board] commissioner to provide sufficient accommodations for women held under arrest to keep them separate and apart from the cells, corridors and apartments provided for males under arrest, and to so arrange each station house that no communication can be had between the men and women therein confined, except with the consent of the matron or officer in command of said station-house. No officer, other than the matron, shall be admitted to the corridor or cells of the women prisoners without the consent of the officer in command of said station house.

Proceedings where woman is arrested.

§ [378.] 364. Whenever a woman is arrested and taken to a police station, to which a matron is attached, it shall be the duty of the officer in command of the station to cause such matron to be summoned forthwith, and whenever a female is arrested in any precinct to which no matron is attached she shall be taken directly to the station house designated to receive the women prisoners of the precinct in which the arrest is made. No such separate confinement nor any such removal of any woman, shall operate to take from any court any juris-

diction which it would have had. The term "woman" used in sections [three hundred and seventy-two to three hundred and eighty] three hundred and fifty-nine to three hundred and sixty-six, inclusive, shall not include any female either actually or apparently under the age of sixteen years whose care is assumed by any society referred to in section two hundred and ninety-three of the penal code; but every such female shall be taken directly to a station house designated to receive women prisoners and shall be at once transferred therefrom by the officer in charge, to the custody of such society.

Appropriation for salary and maintenance.

§ [379.] 365. The board of estimate and apportionment and the board of aldermen [municipal assembly] shall appropriate annually such sum as may be necessary for the separate care and confinement in station houses of all women arrested in such city, and for the appointment, salary and maintenance of police matrons.

Moneys paid to pension fund by matrons to be returned. [Matrons to contribute to pension fund and share therein.]

§ [380.] 366. All moneys heretofore contributed by any police matron to the pension fund of the police force shall be returned and paid back to such police matron with interest thereon from the date of such contribution, such interest to be paid by The City of New York from the contingent fund of the police department. [Every police matron upon being appointed to the uniformed force, shall, each year thereafter, and under the regulations prescribed for patrolmen, contribute two per centum of the salary received by her to the pension fund of the police force, and all fines and forfeitures imposed upon police matrons of the uniformed force, or emoluments received by them under the regulations prescribed for patrolmen, shall be contributed to the pension fund of the police force. A police matron who shall have performed duty on such police force for a period of twenty years or upward, upon her own application in writing may, or upon the certificate of so many of the police surgeons as the police board may require showing that a matron of whatever age who has served twenty years as police matron is permanently disabled physic-

ally or mentally, so as to be unfit for duty, shall, by order of the police board, be relieved and dismissed from said force and service and placed on the roll of the pension fund, and awarded and granted to be paid from said fund an annual pension during her lifetime of a sum not less than one-half of the full salary or compensation of such matron so retired. Pensions granted under this section shall be for the natural life of the pensioner and shall not be revoked or diminished. The police board shall have power in its discretion, to retire or dismiss from membership in the police force and thereupon grant a pension to, any police matron who shall after ten years and less than twenty-five years membership in any such police force become physically or mentally incapacitated for further service in the department through injuries received during the performance of her duties.]

Certain act not applicable.

§ [381.] 367. Chapter four hundred and twenty of the laws of eighteen hundred and eighty-eight, entitled "An act to provide for police matrons in cities," as amended by chapter ninety of the laws of eighteen hundred and ninety-one, shall not be applicable to The City of New York.

TITLE 2.

Board of Elections.

Bureaus of election in police department abolished.

§ 368. The bureau in the police department of The City of New York known and designated as the general bureau of elections, and the branches of said general bureau in the boroughs of The Bronx, Brooklyn, Richmond and Queens, together with the office of superintendent of elections of The City of New York and the offices of the chiefs of the branch bureaus of elections in said respective boroughs are hereby abolished, and all of the rights, powers, authority, duties and obligations immediately heretofore by law vested in and imposed upon the said bureau, branch offices, superintendent and chiefs of branch offices, together with every right, power,

authority, duty and obligation, immediately heretofore by law vested in and imposed upon the police department of The City of New York with respect to general, special or primary elections, shall forthwith by force of and as an effect of this chapter be transferred to and continue in the board of elections of The City of New York hereby created.

Board of elections established.

§ 369. There shall be a board of elections of The City of New York to consist of four members who shall be appointed by the mayor, and to be known as commissioners of elections, each of whom, at the time of his appointment, shall be a resident and voter of The City of New York, and not more than two of whom shall, when either of them is appointed belong to the same political party, or be of the same political opinion on state or national politics. The salary of each of said commissioners of elections shall be three thousand dollars a year.

Transfer of books, papers, etc.

§ 370. All books, documents, papers, records and election appliances or appurtenances held or used by or under the control of the superintendent of elections and the chiefs of the branch bureaus of elections, or under the control of the police board of The City of New York shall be transferred to the care, custody and control of the board of elections created by this chapter.

Transfer of superintendent, clerks, etc.

§ 371. So far as practicable and necessary the superintendent, clerks and other employees attached to and in the service of the bureau of elections of The City of New York and of the branches of said bureau in the respective boroughs on January first, nineteen hundred and two, shall be continued in the service and employment of the said board of elections with the same salaries and so far as practicable, the same duties.

[Id.]; Board of elections; management; superintendent.

§ 372. [360.] The affairs of said [general bureau] board of elections [and of said branches thereof] under and subject to such rules, regulations and orders as may, from time to time, be made by said [police] board, not inconsistent with the provisions of the election law or of this chapter, shall be managed, conducted and carried on by a person chosen and appointed by said [police] board who shall be known as the superintendent of elections of The City of New York; and such other officers, clerks, assistants and employees as may be selected or appointed as hereinafter provided.

Id.; officers' terms and salaries; removals.

§ 373. [362.] The said superintendent of elections [shall hold his office for five years, and] shall receive a salary of six thousand dollars a year, [The chiefs of the branch bureaus of elections of the boroughs of Kings, Richmond, The Bronx and Queens shall receive such salaries respectively as shall be fixed by the police board, not to exceed the sum of four thousand dollars a year for the chief of the branch bureau of elections in the borough of Brooklyn, fifteen hundred dollars a year in the borough of The Bronx, and fifteen hundred dollars a year in each of the boroughs of Richmond and Queens. Such salaries shall be paid by the police board in equal monthly installments. Said superintendent of elections and chiefs of branch bureaus] and shall [each] be removable at any time by the [police] board [for cause.] of elections.

Id.; expenses of.

§ 374. All sums necessary to pay the expenses of said board of elections and to meet and defray the charges and expenses of all elections in The City of New York, or in any territory included therein, shall, within the appropriation made therefor, be a charge against the said city, and shall upon proper certificates and vouchers be paid in the same manner as by law is provided for the other expenses and charges against the said city. Said charges and expenses shall be included in the annual budget of said city each year and in the yearly

taxes levied upon the estates, real and personal, in The City of New York.

Id.; superintendent to destroy registers of electors, etc.

§ 375. [369.] The superintendent of [the general bureau of] elections under the direction of the [police] board of elections [in The City of New York] is hereby authorized and directed not less than two years after each election, to sell or destroy all registers of electors, statements of canvass and tally sheets; provided that two copies of the register of electors for each election district to be selected by the superintendent of [the general bureau of] elections, shall be excepted and preserved from such sale or destruction.

CHAPTER IX.

BOROUGH OFFICERS.

Title 1. Borough officers.

Title 2. Bureau of buildings.

TITLE I.

Borough Officers.

President; qualifications, term, election, salary.

§ 382. There shall be a president of each borough, who must be a resident thereof at the time of his election and remain a resident thereof throughout his term of office. The president and his successors shall be elected by the electors of the borough at all the elections whereat the mayors of The City of New York are respectively to be elected. The president shall hold his office for a term of four years, commencing at noon on the first day of January next after his election. The salary of the presidents of the boroughs of Manhattan, of The Bronx and of Brooklyn, respectively, shall be **[five]** seven thousand five hundred dollars a year, and the salary of the presidents of the boroughs of Queens and of Richmond, respectively, shall be **[three]** five thousand dollars a year. A president of a borough may be removed in the same manner as the mayor as provided in other sections of this act. **[by the mayor on charges, subject to the approval of the governor of the state of New York.]** Any vacancy in the office of president caused by removal from the borough, or otherwise, shall be filled for the unexpired term by an election to such vacancy made by a majority vote of all the members of the **[municipal assembly]** board of aldermen then in office representing said borough, and in case of any such vacancy it shall be the duty of the mayor forthwith to call such members in session for such an election and to preside thereat; but he

shall not vote unless his vote be necessary to decide the election. [In case of the disability of any president of the borough caused by protracted illness there shall be elected in the same manner as for a vacancy, a president of the borough pro tempore, who shall act until the president is able to perform the duties of his office.]

President; powers and duties.

§ 383. [A] The president of a borough shall, by virtue of his office, be a member of the local board of every district of local improvements in his borough, and chairman thereof, entitled to preside at its meetings and to vote as any other member. [, but he shall not have the power of veto.] He shall have an office in such hall or public building of the borough as the [municipal assembly] board of aldermen may by resolution direct. He may appoint and at pleasure remove a commissioner of public works for his borough, who may discharge all the administrative powers of the president of the borough relating to streets, sewers, public buildings and supplies conferred upon him by this act; and who shall, in the absence, or illness of such president discharge all the duties of such president. He shall have power to appoint a secretary and such [other] assistants, [and] clerks and subordinates as he may deem necessary, if provision be made therefor by the board of estimate and apportionment and the [municipal assembly] board of aldermen. [and, within the proper appropriation, to fix their salaries.] The said secretary, assistants, [and] clerks and subordinates shall hold office at the pleasure of the president, subject to the provisions of the civil service laws. He shall, within the borough for which he shall have been elected, have cognizance and control:

1. Of regulating, grading, curbing, flagging and guttering of streets and laying of crosswalks.
2. Of constructing and repairing public roads.
3. Of paving, repaving, resurfacing and repairing of all streets, and of the relaying of all pavements removed for any cause.

4. Of the laying or relaying of surface railroad tracks in any public street or road, of the form of rail used, or character of foundation, and the method of construction, and of the restoration of the pavement or surface after such work.

5. Of the filling of sunken lots, fencing of vacant lots, digging down lots, and of licensing vaults under sidewalks.

6. Of the removal of incumbrances.

7. Of the issue of permits to builders and others to use or open the streets.

8. Of the construction and maintenance of all bridges and tunnels which are within his borough, and form a portion of the highways thereof, except such bridges as cross navigable streams.

9. Of all subjects relating to the public sewers and drainage of his borough. He shall initiate the making of all plans for the drainage of his borough, except as otherwise specifically provided in this act. He shall have charge of the construction of all sewers in accordance with said plans. He shall have in charge the management, care and maintenance of the sewer and drainage system of the borough of which he shall be president and the licensing of all cisterns and cesspools.

10. Of the construction, repairs, cleaning and maintenance of public buildings, including markets, except schoolhouses, almshouses, penitentiaries and fire and police station houses, and other buildings whose care and custody are otherwise provided for in this act.

11. Of the care and cleaning of all offices leased or occupied for public uses.

12. Of the location, establishment, care, erection, and maintenance of the public baths, public urinals and public comfort stations; and of the placing of all signs indicating the names of the streets and other public places.

The president of each borough shall prepare all contracts relating to his borough, subject to approval as to form by the corporation counsel. He shall have such other powers as are

expressly conferred upon him by this act, and such other powers as may be conferred upon him by the board of aldermen. He shall make an annual report of the business and transactions of his borough to the mayor.

The presidents of the boroughs of Queens and Richmond shall, each for the borough of which he shall have been elected president, in addition to the powers above specified, have cognizance and control:

1. Of the sweeping and cleaning of the streets of the borough, and of the removal or other disposition as often as the public health and the use of the streets may require, of ashes, street sweepings, garbage, and other light refuse and rubbish, and of the removal of snow and ice from leading thoroughfares and from such other streets as may be found practicable.

2. Of the framing of regulations controlling the use of sidewalks and gutters by abutting owners and occupants for the disposition of sweepings, refuse, garbage or light rubbish, within the borough which, when so framed, and approved by the board of aldermen shall be published in like manner as city ordinances, and shall be enforced by the police department in the same manner and to the same extent as such ordinances, together with such other powers concerning street cleaning as are expressly conferred upon them by this act.

3. The said presidents of the boroughs of Queens and Richmond shall have power to appoint such subordinates as may be necessary to enable them to carry into effect the provisions of this act regarding cleaning the streets of his borough, but the aggregate salaries of such officers shall not exceed in any one year the amount appropriated therefor by the board of estimate and apportionment and the board of aldermen. The said presidents of the boroughs of Queens and Richmond shall, so far as possible, select such subordinates from the members of the street cleaning department employed within said boroughs at the time when this act shall take effect. The said presidents of the boroughs of Queens and Richmond shall have

such other powers relating to street cleaning within said boroughs as are conferred upon the commissioner of street cleaning by sections five hundred and forty-one, five hundred and forty-three, five hundred and forty-four and five hundred and forty-five of this act.

Whenever by any of the provisions of this act powers are conferred or duties are imposed upon a president of a borough, such powers may be exercised and such duties may be performed, upon the request of said president, by the commissioner of public works of said borough, if such official shall have been appointed; and if not, by any subordinate duly appointed by the president of said borough under the powers conferred upon him by this act and duly designated thereto in writing; and such powers and duties when exercised or performed by such commissioner of public works or other appointee shall be regarded as having been exercised or performed by such president in the same manner as if such powers and duties had been actually exercised or performed by such president personally.

President to call meetings of local board.

§ 384. [A] The president of [the] a borough shall call all meetings of the various local boards of the borough, and shall give such notice thereof to the members as the ordinances of the [municipal assembly] board of aldermen may require. And he shall certify all resolutions, proceedings and determinations of the local boards of the districts of local improvements in his borough.

Halls or buildings to be located in each borough.

§ 385. There may be [when prescribed by this act] a hall or public building or buildings in each borough, at which may be stationed deputies of such of the various administrative departments of the city government, as may be authorized by the board of [public improvements,] aldermen, for the greater convenience of the people of the city in the discharge of the duties thereof, provided such deputies or divisions shall be in all things as much a part of each department respectively, and

as fully under the head thereof, as if the administrative force of said department were seated wholly in one building.

Employment of engineers and architects.

§ 386. The president of each borough may at any time employ, when thereto authorized by the board of estimate and apportionment and the board of aldermen, a consulting engineer, who shall be an expert in all matters relating to sewers and highways, and who shall have had fifteen years' experience as a civil engineer; and a consulting engineer of public buildings, who shall be an expert in the matter of construction, repair and maintenance of public buildings; and a consulting architect, who shall be an architect of recognized, scientific and artistic standing of not less than fifteen years' experience. All other engineers or assistant engineers appointed by or under the authority of a borough president must be civil engineers of at least ten years' experience.

The office of commissioner of street improvements in the twenty-third and twenty-fourth wards abolished; devolution of powers.

§ 387. [526.] The office of commissioner of street improvements of the twenty-third and twenty-fourth wards of the city of New York, created by chapter five hundred and forty five of the laws of eighteen hundred and ninety, is hereby abolished, and all the powers, privileges and duties of the said commissioner of street improvements for the said twenty-third and twenty-fourth wards, which in any way relate to the regulating, grading, regrading, curbing, flagging and guttering of streets, laying of crosswalks, the constructing and repairing of public roads, paving, repairing and repaving of all streets and the relaying of all pavements removed for any cause, of the filling of sunken lots, or which in any way relate to the sewers and drainage of the said twenty-third and twenty-fourth wards, and to the construction, repair and cleansing of sewers and underground drains, and of the licensing of the cisterns and cesspools therein, and of all matters in any way relating to the construction, maintenance and care of the sewer

system and drainage of said wards, are hereby, so far as the same are consistent with the requirements of this act, devolved upon the [commissioner of highways of The City of New York,] president of the borough of the Bronx and are to be exercised and performed by him or by the commissioner of public works appointed by him according to the provisions of this act.

Devolution of powers of former [boards.] officers; highways.

§ 388. [527.] All powers and duties which on the first day of January, nineteen hundred and two, are conferred upon the commissioner of highways of The City of New York, and all powers and duties which on December thirty-first, eighteen hundred and ninety-seven, were conferred upon the corporation heretofore known as the mayor, aldermen and commonalty of the city of New York, or upon any board or officer thereof, or upon the corporation known as the city of Brooklyn, or upon any board or officer thereof, or upon the corporation known as Long Island City, or upon any board or officer thereof, and upon any other municipal corporation, town or village, within the county of Richmond, or within [so much of the territory of the county of Queens as is by this act annexed to the municipal corporation known as the mayor, aldermen and commonalty of the city of New York, and consolidated into the municipality known as The City of New York,] the county of Queens, in any way relating to the regulating, grading, regrading, curbing, flagging, and guttering of streets, the laying of crosswalks, the constructing and repairment of public roads, paving, repaving and repairing of all streets, and the relaying of all pavements removed for any cause, the filling of sunken lots, and all matters directly related thereto, are hereby vested in The City of New York, as constituted by this act, and as matter of administration devolved upon the [commissioner of highways,] president of the borough, within which is situated the territory to which or to the official representatives of which said powers and duties heretofore appertained, and by him are to be executed pursuant to the provisions, directions and limitations of this act.

Devolution of powers of former [boards.] officers; sewers.

§ 389. [566.] All powers and duties heretofore conferred upon The City of New York as heretofore known and bounded, or any of the officers thereof, or upon the city of Brooklyn, or any of the officers thereof, or upon Long Island City or any of the officers thereof, or upon any board or public officers acting within any of the territory of the county of Richmond, or within that part of the territory of the county of Queens, hereby annexed by this act to the corporation known as the mayor, aldermen and commonalty of the city of New York, and by this act consolidated into one municipal corporation, which in any way relate to the public sewers and drainage of the said cities, municipal corporations, town or territory, and to the construction, repair and cleansing of sewers and underground drains and of the licensing of cisterns and cesspools therein and to all matters in any way concerning the construction and care of the sewer system and drainage thereof, so far as such powers and duties are consistent with and conformable to the provisions of this act, are hereby vested in The City of New York, and as matter of administration devolved upon the [Commissioner of sewers of The City of New York,] president of the borough within which is situated the territory to which or to the official representatives of which said powers and duties heretofore appertained to be by him executed in accordance with the provisions, directions and limitations of this act.

Maps, etc., to be returned over to borough presidents.

§ 390. The commissioner of highways and the commissioner of sewers, as constituted by chapter three hundred and seventy-eight of the laws of eighteen hundred and ninety-seven, are hereby respectively required and directed to turn over and deliver, on the first day of January, nineteen hundred and two, to the several borough presidents of the various boroughs included within The City of New York, so far as the same shall apply to the borough of which each is president, all maps, plans, models, surveys, books and papers relating to highways or to sewers, filed with or communicated to said commissioners respectively or turned over to them or either of them by his or their predecessors, and all official records and

papers of every kind in the possession of them or either of them. And the commissioner of public buildings, lighting and supplies as constituted by chapter three hundred and seventy-eight of the laws of eighteen hundred and ninety-seven is hereby required and directed to turn over and deliver to the various borough presidents, on the first day of January, nineteen hundred and two, all maps, plans, models, books and papers, and all official records and papers of every kind in his possession, relating to the designing, construction and maintenance of public buildings, to each president such plans as pertain to the borough within which he has jurisdiction.

Permit [from department of highways necessary] for removals of pavements, etc.; procedure in case of pavements relaid, etc.

§ 391. [525.] No removal of the pavement or disturbance of the surface of any street for the purpose of constructing vaults or lateral ways, digging cellars, laying foundations of buildings or other structures, making sewer connections, or repairing sewers or pipes, of laying down gas and water pipes, steam pipes and electric wires, or introducing the same into buildings, or for any purpose whatever, shall be made until a permit is first had from the [department of highways;] president of the borough where the work is to be done; and whenever any portion of the pavement in any street or avenue in said city shall have been removed for any of these purposes, and such pavement shall not be relaid in a manner satisfactory to the [commissioner,] president of said borough, the said [commissioner] president 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, or 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, or posting the same thereupon; in case such pavement, or portion thereof, shall not be relaid to the satisfaction of said [commissioner] borough president within the time specified in such notice, it shall be lawful, and authority is hereby given to said [commissioner,] borough president 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 commissioner] he 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 costs of such work being certified to the comptroller of The City of New York by the said [commissioner,] borough president, 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 arrears, may be collected in the same manner that arrears and water rates are collected under the direction of such collector of assessments and arrears. But nothing herein contained shall be deemed to prohibit said [commissioner] borough president from demanding, before issuing said permit, and as a condition thereof, the deposit of such sum of money or other security as, in his judgment, may be necessary to pay the cost of properly relaying the pavement so removed, together with the expense of the inspection thereof.

Overflow sewers; where discharged.

§ 392. [557.] Any overflow sewers which may be deemed necessary for the relief of any main sewers now constructed or which may hereafter be constructed in said city, may be discharged into the waters adjacent to said city, or into the Gowanus canal, or any other canal or inlet in said city, at such points as in [his] the judgment of the president of the borough in which said overflow sewer is located may be most convenient.

Canals to be kept free from obstructions.

§ 393. [558.] It shall be the duty of The City of New York to keep any canal free from any obstructions that may

be occasioned by [the] reason of the emptying of said overflow sewers into it, and for that purpose the [department of sewers of said city] president of the borough in which such canal is located is authorized and directed to dredge the same from time to time.

[Commissioner;] Power to construct temporary sewers, expenses of same.

§ 394. [559.] Whenever it shall become necessary to construct a sewer or drain for the purpose of preventing damage to property or to abate a nuisance, and it shall become impracticable to proceed immediately to the construction of the same in accordance with any plan already adopted, [pursuant to title two of this chapter,] on the approval of the board of [public improvements,] estimate and apportionment, the [said commissioner] president of the borough within which such necessity arises shall have power to construct a temporary sewer or drain in such manner as to avoid such damage or to abate such nuisance, and the cost of such temporary sewer or drain shall be assessed upon the property draining into the same and benefited thereby. And such assessments shall be enforced, levied and collected in the manner provided in chapter seventeen of this act.

Permits for construction of private sewers; procedure; becomes property of city when paid for by, etc.

§ 395. [560.] A permit for the construction of sewers in the streets of said city by private property owners shall only be granted upon the parties proposing to construct such sewer first filing with the [commissioner of sewers,] president of the borough where said sewer is to be constructed plans and specifications of such proposed sewer, conforming to the general plan for the construction of public sewers in said city, [on file in the office of the board of public improvements] and a duplicate copy of the contract for the construction of such sewer, showing the cost of the construction thereof, together with a satisfactory guarantee to said [commissioner] borough president for the payment of the necessary expense of said department of sewers, in the supervision of the construction of said sewer. And upon approval of such plans,

specifications and contracts, by the [commissioner of sewers and the board of public improvements the said commissioner] said borough president, he shall issue his permit for the construction of such proposed sewer and shall forthwith request the board of assessors to apportion the cost of the construction of said sewer according to actual benefit between the several parcels of property abutting on each side of that part of the street through which said sewer shall be constructed. The said board of assessors shall as soon as practicable report such apportionment of such cost to the said [commissioner of sewers.] borough president. Said [commissioner] borough president shall grant permits for connection with said sewer, to be constructed as aforesaid, only to such owners or occupants of the property abutting on that part of such street through which said sewer shall be constructed as shall produce to said [commissioner of sewers] borough president satisfactory proof of the payment by him or them to the parties who constructed and paid for such sewer, of the amount of the proportionate part of the cost of the construction of said sewer apportioned as aforesaid to the property sought to be connected with said sewer, and no permit shall be issued for, nor shall any connection be allowed with said sewer, nor with any sewer heretofore constructed by the owners of the abutting property by private contract from any abutting property until the proportionate part of the expense of the construction of such sewer shall have been paid to the parties entitled thereto by the owners of such abutting property, and satisfactory proof thereof made to said [commissioner of sewers.] borough president. And when constructed, except for the purpose of supervision, maintenance and use by The City of New York in connection with its public sewer system, said sewer shall be deemed the private property of the persons who shall have paid for its construction until the owners of all the property abutting on that part of the street or avenue in which said sewer shall be laid, shall have paid their several shares of the cost of the construction of said sewer, but when the same shall have been fully paid for by all the owners of abutting property, then the same shall be the property of The City of New York, and deemed to have been fully dedicated to said city.

Id.; power to acquire lands for sewers.

§ 396. [561.] The City of New York is authorized to acquire title for the use of the public to all or any of the lands and premises required for sewers, or to easements therein for that purpose, whether the same be above or below high-water mark or under water. The board of [public improvements,] estimate and apportionment, at the request of the [commissioner of sewers,] president of the borough where such lands are located, is authorized to direct the same to be done. It shall be the duty of the corporation counsel, when requested in writing by the board of [public improvements,] estimate and apportionment, immediately to institute a proceeding to acquire title for the use of the public to lands and premises or easements therein, required for the building of sewers or drains, in the same manner that is provided by this act for the acquisition of lands for the purpose of opening streets. The expenses incurred in the acquisition of such lands and premises, with the buildings and improvements thereon, so far as the same shall be taken in such a proceeding, shall be assessed in accordance with the provisions of this act relating to the opening of streets upon all the property deemed by the commissioners of estimate and assessment appointed in such proceeding to be benefited by the acquisition of such lands for such purpose, and upon the owners thereof or persons interested therein.

Proposals and contracts for sewerage work.

§ 397. [562.] The [commissioner of sewers,] president of each borough, upon the completion of the plan of sewerage of any district within the borough of which he is president, upon the filing of copies thereof, [as required by title two of this chapter,] or as soon thereafter as may be deemed convenient and necessary, shall [with the approval of the board of public improvements,] 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.

[Commissioner] Borough president authorized to purchase supplies.

§ 398. [563.] In order to provide for the more effectual and economical construction of sewers, the [commissioner of sewers,] president of any borough, [with the approval of the board of public improvements,] may contract in pursuance of law for such materials used in the construction of sewers within the borough of which he is president and in such quantities as he may deem proper; and it shall be the duty of the comptroller out of the appropriate fund or from the proceeds of assessment bonds authorized to be issued, upon the requisition of said [commissioner,] borough president, to pay for such materials, and the expenses for engineers, surveyors, inspectors or other persons employed by authority of said [commissioner] borough president in the construction of sewers.

Penalty for injury to sewers.

§ 399. [564.] All provisions of law creating civil and criminal liabilities from wrongs and injuries done to the waterworks of The City of New York, and providing remedies for the redress thereof, and the prosecution and punishment of persons committing the same, shall apply in like manner and extent to wrongs and injuries done to sewers in the said city.

Construction of lateral sewers on behalf of private owners.

§ 400. [567.] Whenever a majority in amount, according to the last preceding assessment, of the owners of land comprising at least thirty acres in one body shall petition for leave to construct and connect lateral sewers in and upon the land in question the [commissioner of sewers,] president of the borough within which said lands shall be located, shall, unless the same has already been done, prepare plans and specifications of such proposed sewers conforming to the general plan for the construction of public sewers in said city. A [One] copy of said plans and specifications shall be filed in the office of the [board of public improvements, and a duplicate copy in the office of the commissioner of sewers,] said borough president. The president of said borough [the commissioner of sewers] may require a guaranty satisfactory to himself for the payment of the necessary expense

of the [department of sewers in the] preparation of such plans and specifications. Upon the approval of such plans and specifications by the [commissioner of sewers and the board of public improvements, the commissioner of sewers] said borough president, he shall, at the request of the petitioners, cause bids to be advertised according to law for the building of any portion of said sewers to be named by said petitioners, but not less than ten thousand dollars in amount (or one mile in length). Upon the opening of said bids the [commissioner of sewers,] said borough president, may award the said contract, as provided by law, but conditional upon the deposit of the amount thereof by or on behalf of the petitioners as hereinafter provided. Thereupon the [commissioner of sewers,] said borough president shall notify in writing said petitioners and the comptroller of such award and the amount that will be required thereunder to construct and build the said sewers. Within thirty days thereafter the said petitioners shall pay or cause to be paid to the comptroller of The City of New York a sum equal to the amount necessary to construct and build the said sewers covered by said contract. If the petitioners shall not pay such money to the comptroller within the time aforesaid, then all proceedings hereunder shall be null and void, and after deducting from the money already deposited by or on behalf of the petitioners, or secured by them to be paid, the amount of all expenses in connection with said proposed sewers, the comptroller shall return the balance of said money, if any, to the petitioners or their assigns. If the petitioners shall deposit the money for the purpose of carrying out said contract, as above provided, the [commissioner of sewers] said borough president shall duly award said contract to the bidder entitled thereto, and shall proceed to the construction and completion of said sewers. When the said sewers shall have been completed, the [commissioner of sewers] said borough president shall deliver to and file with the comptroller and also with the board of assessors of said city a certificate setting forth the amount of the entire cost of such portion of said sewers, including the interest accrued on said deposit to the date of said certificate, together with a map and statement showing the location and general character of the sewer. Thereupon said board of assessors shall apportion and assess the cost of said sewers and the other

expenses arising under this act upon the lands and premises affected thereby in proportion to the amount of benefit derived by each of said lots without regard to the assessed valuation thereof, as in their judgment shall be just, and shall prepare a list showing the separate parcels so benefited, and the amounts so assessed upon the same respectively, and thereupon the same proceedings shall be had for confirmation of said assessment and apportionment as is provided in this charter, and said assessment and apportionment shall include interest to the date of such confirmation. The confirmation of said assessment and apportionment shall be final and conclusive upon all owners of land and all persons affected thereby. The board of assessors shall thereupon divide the amount proportioned and assessed upon each parcel of land affected thereby into twenty equal annual parts or instalments, together with interest upon each instalment at the rate of six per centum per annum from the date of such confirmation of the apportionment and assessment to the first day of December in each said twenty years successively, and shall duly enter their said apportionment and assessment, with interest as aforesaid, and in said twenty yearly instalments, in books which they shall properly certify. Thereupon said board shall deliver to and file in the offices of the comptroller and of the collector of assessments and arrears, respectively, one copy of said books of apportionment and assessment. On the first day of September in each of said twenty years, respectively, the said assessment for said year shall be and become a lien upon the lands or parcels of land affected thereby, and the said filing in his office of the said apportionment and assessment shall be to the collector of assessments and arrears a full and proper warrant for collecting the instalments so levied, as they respectively become due in each year. The said instalments so levied shall in each case be due and payable on the first day of December in each year, and according to said apportionment and assessment, and shall be collected in the same manner and subject to the same rebate and default as is provided by law in the case of assessments in the said city affecting the lands in question, and all the provisions of law applicable to the sale of lands for the non-payment of assessments in the said city affecting the lands in question shall apply to the said assessments provided for herein. Each one of the said sev-

eral annual instalments levied as aforesaid in each year shall, notwithstanding any other provisions of this charter, be a lien upon the lands or parcels of land affected thereby only from the time the same shall be respectively levied. The owner of any parcel of land so assessed may at any time after the first instalment shall have become due and payable, pay to the comptroller of The City of New York all the instalments not levied of the sum made chargeable on said land, as ascertained by the board of assessors as provided for in this section, with the proper deduction or rebate for any interest for any period subsequent to the date of said payment and included in said unpaid instalments respectively upon said books. Thereupon the said land shall be discharged from all further liability on account of such assessments. For the purpose of making such payment, such owner shall present to the comptroller the certificate of the collector of assessments and arrears showing the amount of the said instalments not levied and paid, and upon receiving such payment the comptroller shall certify the same to the collector of assessments and arrears, who shall thereupon cancel the assessments so paid. The collector of assessments and arrears shall cause to be printed on all bills made out in his office for instalments of said assessments a reference to this section and a notification that the remaining instalments may be paid and cancelled in the manner herein provided. Whenever the petitioners or their assigns or nominees shall have paid, or shall have caused to be paid, to the comptroller the sum of money required to construct and build said sewers or any portion thereof, as specified in the said contract or contracts, they shall be entitled to receive the moneys and all interest thereon to be assessed and collected under this act, and all such moneys and interest so collected upon said assessment shall forthwith be paid over to the said petitioners, or their nominees or assigns. Whenever the said money shall have been so paid by said petitioners, or their nominees or assigns, the comptroller shall execute to the person or corporation so paying said money a certificate in writing, stating that said money has been so paid, and that the person or corporation holding said certificate is entitled to receive the money so assessed together with interest thereon at the rate of six per centum per annum, and that the city will pay over from time to time said moneys and interest as they shall

be received and collected under this section. The petitioners, or their assigns, may from time to time designate various portions of said sewers, not less than the amount above specified, to be built and completed as herein provided, and thereupon the same proceedings as above provided shall be taken for the building and completing of the said sewers so successively designated, and for assessing and collecting the amounts expended for constructing said sewers. In **[constructing]** construing this section, sewers twenty-four inches or less in diameter shall be deemed to be lateral sewers, and all sewers exceeding twenty-four inches in diameter shall be deemed to be trunk sewers. If, in any case, the moneys deposited with the comptroller shall exceed the cost of building and completing the sewers for which the said moneys were deposited, the comptroller shall, upon ascertaining this fact, pay over such surplus to the petitioners or their assigns or nominees. If the moneys so deposited shall not be found sufficient to complete the sewers for which the same were deposited, then the comptroller may demand of the petitioners or their assigns or nominees the balance required to build and complete said sewers, and in case of their failure to pay the same, the comptroller may retain any such balance out of the first moneys coming into his hands from assessments upon the property upon which the said sewers were constructed. The petitioners shall have the right to appoint in writing an attorney or nominee to represent them in relation to said sewers before any of the authorities of the city, and to receive any moneys payable hereunder or do any act or receive any notice required hereunder. Such appointment of a nominee or attorney shall be irrevocable without the consent of said nominee or attorney. Nothing herein contained shall in any way prevent The City of New York from taking such action as it may deem proper to build lateral sewers upon or do any other act in relation to any of the property mentioned in said petition. This section shall apply to the boroughs of Brooklyn and Queens in The City of New York.

Construction of sewage disposal works or plants and appurtenances, and providing for the payment of the cost thereof by local assessment.

§ 401. **[568.]** Wherever in this act known as "the Greater New York Charter," or in any other act or acts applicable to

The City of New York, or the mayor, aldermen and commonalty of the city of New York, the words "sewer" or "sewers" or the words "construction, repairing and cleansing of sewers and underground drains," or the words "map or plan for the proper sewerage and drainage," or the words "the construction and care and maintenance of the sewer system and drainages," or the words "local improvement" shall occur, the said words shall be construed to include and to mean sewage disposal works or plants, and the necessary appurtenances thereto. It is the intent and meaning of this section that sewage disposal works or plants and the necessary appurtenances thereto, shall be construed as being a part and parcel of a sewer, and the cost of constructing and erecting the same shall be paid for by local assessments upon the property deemed to be benefited thereby in the same way as the cost of constructing a sewer and appurtenances is [now] paid for in The City of New York, and the cost of repairing, cleansing and maintaining such sewage disposal works or plants and appurtenances, shall be paid for in the same way as the cost of repairing, cleansing and maintaining sewers and underground drains are [now] paid for. Power and authority to construct and erect and maintain sewage disposal works or plants and the necessary appurtenances thereto in The City of New York is hereby granted to the same authorities as the power to construct sewers and appurtenances is granted, such construction and erection and maintenance to be done under and pursuant to and in compliance with the same laws and regulations as apply to the construction and maintenance of sewers and appurtenances thereto.

TITLE 2.

Bureau of Buildings.

Appointment of superintendents [commissioners]; qualifications; jurisdiction; salaries.

§ 405. [644. The head of the department of buildings shall be called the board of buildings. Said board shall consist of three members to be known as commissioners of buildings. They shall be appointed by the mayor and shall hold their respective offices as provided in chapter four of this act. Each

of said commissioners shall be a competent architect or builder of at least ten years' experience. One of said commissioners shall be the president of the board, and shall be so designated by the mayor. In appointing such commissioners the mayor shall specify the borough or boroughs in which they are respectively to have administrative jurisdiction, to wit: one in the boroughs of Manhattan and The Bronx; one in the borough of Brooklyn; and one in the boroughs of Queens and Richmond. The principal office of the department of buildings shall be in the borough of Manhattan. There shall be a branch office in the borough of Brooklyn, and a branch office may be established in any of the other boroughs, in the discretion of the board. The salary of the commissioner of buildings for the boroughs of Manhattan and The Bronx, and the salary of the commissioner of buildings for the borough of Brooklyn, shall in each case be seven thousand dollars a year. The salary of the commissioner of buildings for the boroughs of Queens and Richmond shall be three thousand five hundred dollars a year.] There shall be in the office of each borough president a bureau to be known as "the bureau of buildings for the borough of ———." The presidents of the boroughs of Manhattan, The Bronx and Brooklyn shall, each within the borough for which he is elected, appoint a superintendent of buildings for the borough. The presidents of the boroughs of Queens and Richmond may, whenever appropriation is made therefor by the board of aldermen upon the recommendation of the board of estimate and apportionment, each within the borough for which he is elected, in like manner appoint a superintendent of buildings for the borough. Every superintendent of buildings so appointed shall be a competent architect or builder of at least ten years' experience. The president of a borough may, whenever in his judgment the public interests shall require, remove the superintendent of buildings of his borough. Every such superintendent shall hold office until his successor is appointed and has qualified. The salaries of the superintendents of buildings in the boroughs of Manhattan, The Bronx and Brooklyn shall, unless otherwise fixed as provided in this act, be five thousand dollars a year. The

salary of the superintendent of buildings in the borough of Queens (if that office is created) shall, unless otherwise fixed as provided in this act, be three thousand five hundred dollars a year. The salary of the superintendent of buildings in the borough of Richmond (if that office is created) shall, unless otherwise fixed as provided in this act, be two thousand five hundred dollars a year. In case no superintendent of buildings is appointed by either the president of the borough of Queens or the president of the borough of Richmond, then the presidents of the said boroughs respectively shall each within the borough for which he has been elected, exercise all the powers and discharge all the duties of a superintendent of buildings for that borough. The words "superintendent of buildings" wherever used in the subsequent sections of this chapter shall be taken and held to mean a superintendent of buildings for any borough lawfully appointed by the president thereof, under the preceding provisions of this section, or, in the case of the boroughs of Queens and Richmond, the borough president in case he shall not have appointed a superintendent of buildings.

Duties of superintendents [commissioners]; appointment and removal of subordinates.

§ 406. [648.] Each superintendent of buildings [commissioner] shall, within the borough or boroughs in which he [is appointed to exercise administrative] has jurisdiction, have charge of the administration of, and it shall be his duty, subject to and in accordance with the general rules and regulations established by the [board] president of the borough, to enforce such rules and regulations and the provisions of this chapter and of such ordinances as may be established by the [municipal assembly] board of aldermen, and of the laws relating to the construction, alteration or removal of buildings or other structures erected or to be erected within such borough. [or boroughs. Each commissioner] Each superintendent of buildings within the limits of his appropriation shall have power to appoint and at pleasure to

remove subordinate officers, as follows: Such [superintendents] chief inspectors of buildings, and such inspectors of buildings, engineers, clerks, messengers, assistants and other subordinates as in his judgment may be necessary and proper to carry out and enforce such rules and regulations and ordinances and the provisions of said laws and of this chapter within the borough [or boroughs] under his jurisdiction. The [superintendents] chief inspectors of buildings shall each be a competent architect, engineer or builder of at least ten years' practice. The inspectors shall be competent men, either architects, engineers, masons, carpenters, plumbers or iron workers, who shall have served at least five years as such. It shall not be lawful for any officer or employee in the [department] building bureau of any borough to be engaged in conducting or carrying on business as an architect, civil engineer, carpenter, plumber, iron worker, mason or builder while holding office in the [department] bureau, or to be engaged in the manufacture or sale of articles entering into the construction of buildings, or act as agent for any person engaged in the manufacture or sale of such articles or own stock in any corporation engaged in the manufacture or sale of such articles. Each [commissioner] superintendent of buildings shall have power to designate in writing one of the [superintendents of buildings or any of the] inspectors so appointed by him to act on any survey authorized by law, or to perform such other duties as the said [commissioner] superintendent may direct. Each [commissioner] superintendent of buildings may designate a [superintendent] chief inspector of buildings, who, during the absence or inability of such [commissioner,] superintendent shall possess all the powers and perform all [the] his duties so far as they relate to buildings. [of such commissioner]. Any employee, for any neglect of duty, or omission to properly perform his duty, for violation of rules, or neglect or disobedience of orders, or incapacity, or absence without leave, may be punished by the [commissioner] officer appointing him by forfeiting and withholding pay for a specified time, or by suspension from duty with or without

pay; but this provision shall not be deemed to abridge the right of said [commissioner] officer to remove or dismiss any inspector of buildings or other subordinate appointed by him or by any predecessor in office from the service of the [department] bureau at any time in his discretion. Any officer or employee of or in the bureau of buildings of any borough, or police officer thereto detailed, who shall ask, solicit or accept or receive any money or other compensation for enforcing or not enforcing or for modifying or changing any order or requirement of said bureau shall be guilty of a felony.

Continuation and repeal of existing laws; building code.

§ 407. [647. The several acts in effect at the time of the passage of this act concerning, affecting or relating to the construction, alteration or removal of buildings or other structures in any of the municipal and public corporations included within The City of New York as constituted by this act are hereby continued in full force and effect in such municipal and public corporations respectively, except in so far as the same are inconsistent with or are modified by this act; provided, however, that the municipal assembly shall have power to establish and from time to time to amend a code of ordinances, to be known as the "building code," providing for all matters concerning, affecting, or relating to the construction, alteration or removal of buildings or structures erected or to be erected in The City of New York, as constituted by this act, and for the purpose of preparing such code to appoint and employ a commission of experts; and provided further, that upon the establishment of such code the several acts first above mentioned shall cease to have any force or effect, and are hereby repealed, but such repeal shall not take effect until such "building code" shall be established by the municipal assembly as herein provided. The provisions of such "building code" shall be in conformity with and be subject to all general laws of the state concerning, affecting or relating to buildings, or classes of buildings, or other structures.] The board of aldermen is authorized by ordinance to regulate and restrict the height of buildings to be hereafter erected in the city. When any

ordinance on that subject is introduced, the board of aldermen shall provide for public hearings in reference thereto, before it or before appropriate committees; and no ordinance restricting the height of buildings shall be passed unless it is approved beforehand by the board of estimate and apportionment by a resolution or vote of a majority of the members of such board entered on its minutes or record, and unless it shall be passed by a majority of all the members elected to the board of aldermen, the vote being taken by ayes and noes. The building code which shall be in force in The City of New York on the first day of January, nineteen hundred and two, and all then existing provisions of law fixing the penalties for violation of said code and all then existing laws affecting or relating to the construction, alteration or removal of buildings or other structures within The City of New York are hereby declared to be binding and in force in The City of New York and shall continue to be so binding and in force except as the same may from time to time be revised, altered, amended or repealed as herein provided. No right or remedy of any character shall be lost or impaired or affected by reason of this chapter. This chapter shall not affect or impair any act done or right accruing, accrued or acquired or penalty, forfeiture or punishment incurred prior to the time when this act takes effect or by virtue of any law repealed or modified by this chapter, but the same may be asserted, enforced, prosecuted or inflicted as fully and to the same extent as if this act had not been passed or said law had not been repealed or modified. The board of aldermen shall have power from time to time to amend said building code and said laws and to provide therein for all matters concerning, affecting or relating to the construction, alteration or removal of buildings or structures erected or to be erected in The City of New York and for the purpose of preparing or amending such code to appoint and employ a commission of experts.

[General powers of commissioners under existing laws.] General provisions relative to existing building laws.

§ 408. [646.] The [commissioner for] superintendent of buildings appointed by the president of the borough[s] of Manhattan [and The Bronx] shall within such borough[s] in addition to the powers, rights and duties expressly conferred or imposed upon him by this act, possess and exercise all the powers, rights and duties, and shall be subject to all the obligations heretofore vested in, conferred upon or required of the board of buildings of The City of New York and of the commissioner of buildings appointed for the boroughs of Manhattan and The Bronx [of the department of buildings or the superintendent of buildings of the city of New York as heretofore constituted] so far as they relate to the borough of Manhattan and except in so far as the same are inconsistent with or are modified by this act. The superintendent of buildings appointed by the president of the borough of The Bronx shall within such borough, in addition to the powers, rights and duties expressly conferred upon him by this act, and except as hereinafter expressly provided, possess and exercise all the powers, rights and duties and shall be subject to all the obligations heretofore vested in, conferred upon or required of the board of buildings of The City of New York and of the commissioner of buildings appointed for the boroughs of Manhattan and The Bronx, so far as they relate to the borough of The Bronx and except in so far as the same are inconsistent with or are modified by this act. The [commissioner for] superintendent of buildings appointed by the president of the borough of Brooklyn shall, within such borough, in addition to the powers, rights and duties expressly conferred or imposed upon him by this act, possess and exercise all the powers, rights and duties, and shall be subject to all the obligations heretofore vested in, conferred upon or required of the board of buildings of The City of New York and of the commissioner of buildings appointed for the borough of Brooklyn [department of buildings in the city of Brooklyn as heretofore constituted] so far as they relate to the borough of Brook-

lyn, and except in so far as the same are inconsistent with or are modified by this act. The [commissioner for] president of the borough of Queens, in case he shall not appoint a superintendent of buildings, and if he shall appoint such a superintendent, then such superintendent [and Richmond] shall within such borough[s respectively] in addition to the powers, rights and duties expressly conferred or imposed upon him by this act, possess and exercise all the powers, rights and duties, and shall be subject to all the obligations heretofore vested in, conferred upon or required of the board of buildings of The City of New York and of the commissioner of buildings appointed for the boroughs of Queens and Richmond [any department, commission, board or officer of Long Island City as heretofore constituted or of any town or village as heretofore constituted which is comprised within that portion of the county of Queens included in The City of New York as constituted by this act or which is] so far as they relate to the borough of Queens and except in so far as the same are inconsistent with or are modified by this act. The president of the borough of Richmond, in case he shall not appoint a superintendent of buildings, and if he shall appoint such a superintendent, then such superintendent shall within such borough, in addition to the powers, rights and duties expressly conferred or imposed upon him by this act, possess and exercise all the powers, rights and duties, and shall be subject to all the obligations heretofore vested in, conferred upon or required of the board of buildings of The City of New York and of the commissioner of buildings appointed for the boroughs of Queens and Richmond, so far as they relate to the borough of Richmond, [of any department, commission, board or officer of any town or village in the county of Richmond as heretofore constituted so far as such powers, rights, duties, and obligations concern, affect or relate to the construction, alteration or removal of any building or structure erected or to be erected within said boroughs or either of them] and except in so far as the same are inconsistent with or are modified by this act.

Rules and regulations.

§ 409. [645. The board] Each president of a borough shall have [the] power [by a vote of a majority of its members] to establish general rules and regulations for the administration of the building department of his borough, and such other rules and regulations as were authorized by law at the time of the passage of [this act] chapter three hundred and seventy-eight of the laws of eighteen hundred and ninety-seven to be established by the superintendent of buildings in The City of New York, or by the commissioner of the department of buildings in the city of Brooklyn, as said cities were formerly constituted. Such rules and regulations shall, so far as practicable, be uniform in all the boroughs, but the [board] president of the borough shall have power, from time to time, to amend or repeal such rules and regulations when in [the] his opinion [of a majority of the commissioners] it shall seem necessary or desirable. [The board shall also have the power to appoint a secretary, and within the limits of its appropriation to appoint such subordinate officers as may be necessary for the proper conduct of the office of the department.]

Power to vary the provisions of law.

§ 410. [650.] Each superintendent of buildings [commissioner], shall have power, with the approval of the [board] president of the borough in case the superintendent of buildings is a different individual from the president of the borough, to vary or modify any rule or regulation of the [board] president of the borough or the provisions of this chapter or of any existing law or ordinance relating to the construction, alteration or removal of any building or structure erected or to be erected within his jurisdiction upon an application to him therefor in writing by the owner of such building or structure, or his duly authorized agent, where there are practical difficulties in the way of carrying out the strict letter of the law, so that the spirit of the law shall be observed and public safety secured and substantial justice done [; but no such variation or modification shall be granted or allowed except by a vote of a majority of the board]. Where such application has been filed with a [commissioner] superintendent of buildings the owner of such building or structure or his duly authorized

agent shall have the right to present a petition to such [commissioner and the board] superintendent of buildings, setting forth the grounds for the desired variation or modification, and may appear before [said board] him and be heard. The [board] said officer shall fix a date within a reasonable time for a hearing upon such application and shall as soon as practicable render a decision thereon, which decision shall be final. The particulars of each such application and of the decision [of the board] thereon shall be entered upon the records of the [board] building department of such borough, and if the application is granted a certificate therefor, together with a statement of the reasons for such decision, shall be issued by the [commissioner] officer to whom the application is made and shall be countersigned by the president of the borough [secretary of the board].

[Decisions of commissioners;] Appeals.

§ 411. [649.] Each [commissioner] superintendent of buildings shall have power and it shall be his duty, subject to the provisions of law and the ordinances of the [municipal assembly] board of aldermen, and the general rules and regulations established [by the board,] according to law to pass upon any question relative to the mode, manner of construction or materials to be used in the erection or alteration of any building or other structure erected or to be erected within the borough [or boroughs] under his jurisdiction which is included within the provisions of this chapter, or of any existing law applicable to such borough [or boroughs] relating to the construction, alteration or removal of buildings or other structures, and to require that such mode, manner of construction or materials shall conform to the true intent and meaning of the several provisions of this chapter and of the laws and ordinances aforesaid, and the rules and regulations established by the president of the borough. [board]. Whenever a [commissioner] superintendent of buildings to whom such question has been submitted, shall reject or refuse to approve the mode, manner of construction or materials proposed to be followed or used in the erection or alteration of any such building or structure, or when it

is claimed that the rules and regulations of the [board] president of the borough or the provisions of law or of said ordinances do not apply, or that an equally good and more desirable form of construction can be employed in any specific case, the owner of such building or structure, or his duly authorized agent, may appeal from the decision of such superintendent [commissioner to the board in any case] where the amount involved by such decision shall exceed the sum of one thousand dollars [; provided, however, that in the boroughs of Manhattan and The Bronx such appeals shall be taken to the board of examiners, established by chapter four hundred and fifty-six of the laws of eighteen hundred and eighty-five and the several acts amendatory thereof or supplemental thereto. The commissioner for the boroughs of Manhattan and The Bronx shall be ex-officio a member and the chairman of said board of examiners. The other members of said board of examiners shall be the persons mentioned and described in section thirty-one of said chapter four hundred and fifty-six of the laws of eighteen hundred and eighty-five and the several acts amendatory thereof or supplemental thereto]. Such appeal shall be heard by a board of examiners consisting of one member of the New York chapter of the American Institute of Architects, one member of the New York Board of Fire Underwriters, two members of the Mechanics and Traders' Exchange of said city, one of whom shall be a master mason and one a master carpenter, one member of the Society of Architectural Iron Manufacturers of said city, and one member of the Real Estate Owners and Builders' Association of said city, who shall be an architect or builder, all of whom shall be appointed by their respective associations and so certified to annually to the mayor of The City of New York, and the chief of the fire department of The City of New York. The said examiners shall each take the usual oath of office before entering upon the performance of their duties. The mayor shall annually designate one of said examiners as the presiding officer of said board. At least five affirmative votes shall be necessary to the granting of any petition by said board. No member of

said board shall pass upon any question in which he is personally interested. The said board shall meet once a week upon notice from any of the superintendents of buildings. The members of said board of examiners shall be entitled to and shall receive ten dollars for each attendance at a meeting of said board, to be paid by the comptroller from an appropriate fund to be provided by the board of estimate and apportionment and the board of aldermen, upon the voucher of the clerk of said board of examiners. The clerk of the board of examiners shall be appointed and may be removed by the mayor of The City of New York, and shall receive a salary of one thousand five hundred dollars. The appeal authorized by this section may be taken within ten days from the entry of a decision upon the records of the superintendent of buildings [commissioner] by filing with the officer [the commissioner] rendering such decision and [with the secretary of the board established by this act or] with the clerk of the board of examiners [as the case may be a notice of appeal, stating specifically the questions which the appellant desires to have passed upon by the board of buildings or by the board of examiners as the case may be] and by filing with [the secretary of the board of buildings or] the clerk of the board of examiners [as the case may be] copies of all papers required by law or by the rules and regulations of the [board of buildings] president of the borough, to be submitted [to the commissioner] upon an application for a building permit, and [the board of buildings or] the board of examiners [as the case may be] shall thereafter fix a day within a reasonable time for the hearing of such appeal, and upon such hearing the appellant may be represented either in person or by his agent or attorney. The decision of [the board of buildings or] the board of examiners, [as the case may be,] upon such appeal, shall be rendered without unnecessary delay, and such decision shall be final.

Accounts; annual estimates; expenditures.

§ 412. [651.] Each [commissioner] superintendent of buildings shall keep accurate and detailed accounts, in a form

approved by the [commissioners of accounts] comptroller of all moneys received and expended by him, the sources from which they are received and the purposes for which they are expended. [and shall prepare itemized monthly statements of all receipts and expenditures in duplicate, one of which statements, together with all vouchers, shall be filed with the comptroller, and one of which shall be filed in his own office. Each commissioner shall, on or before the first day of September in each year, prepare an itemized estimate of his necessary expenses for the ensuing fiscal year and present the same to the board. The three estimates so prepared as revised by the board shall together constitute the annual estimate of the department of buildings, and shall be submitted to the board of estimate and apportionment within the time prescribed by this act for the submission of estimates for the several departments of the city. No commissioner shall incur any expense for any purpose in excess of the amount appropriated therefor; nor shall he expend any money so appropriated for any purpose other than that for which it was appropriated.]

Record of applications.

§ 413. [652.] Each [commissioner] superintendent of buildings shall keep a record of all applications presented to him concerning, affecting or relating to the construction, alteration or removal of buildings or other structures. Such record shall include the date of the filing of each such application; the name and address of the applicant; the name and address of the owner of the land on which the structure mentioned in such application is situated; the names and addresses of the architect and builder employed thereon; a designation of the premises by street number, or otherwise, sufficient to identify the same; a statement of the nature and proposed use of such structure; and a brief statement of the nature of the application, together with a memorandum of the decision of the [commissioner] superintendent upon such application and the date of the rendition of such decision. The books containing such records are hereby declared to be public records, and shall be open to inspection at all reasonable times.

Books, plans, etc., to be delivered to borough presidents.

§ 414. Each commissioner of buildings as constituted by chapter three hundred and seventy-eight of the laws of eighteen hundred and ninety-seven is hereby required and directed to turn over and deliver on January first, nineteen hundred and two, to the president of each borough so far as the same shall apply to the borough of which he is president, all plans, records, books, and papers relating to buildings filed with or deposited with said commissioner or turned over to him by his predecessor and all official records and papers of every kind in his possession. In case any doubt shall arise as to the proper disposition of said plans, books, papers and records, the presidents of the various boroughs shall meet together and devise a plan for such distribution, which plan when approved by the mayor shall be followed by the said presidents and said commissioners in their distribution of all such plans, books, records and papers relating to buildings.

CHAPTER X.

【THE BOARD OF PUBLIC IMPROVEMENTS.

- Title 1. Board of public improvements.
- Title 2. Map or plan of The City of New York; map of sewer system and sewer districts.
- Title 3. General provisions relating to departments.
- Title 4. Department of water supply.
- Title 5. Department of highways.
- Title 6. Department of street cleaning.
- Title 7. Department of sewers.
- Title 8. Department of public buildings, lighting and supplies.
- Title 9. Department of bridges.】

CONTRACTS AND LOCAL IMPROVEMENTS.

- Title 1. General provisions relating to contracts.
- Title 2. Local boards.
- Title 3. Local improvements.
- Title 4. Maps and plans.

TITLE I.

General Provisions Relating to Contracts.

【Municipal assembly;】 Board of aldermen; restriction on powers of.

§ 417. **【414.】** It shall not be lawful for the **【municipal assembly】** board of aldermen to enter directly into contract for any public work or improvement whatsoever. **【**When proposals to enter upon public work of any character falling within the jurisdiction of the various departments represented in the board of public improvements originate in the municipal assembly before an ordinance or resolution

authorizing the same or providing money therefor shall be adopted, a report must be had from the board of public improvements as to the desirability thereof. Said board shall report in as much detail as possible, and shall submit an approximate, and whenever practicable, a detailed estimate of cost. If the report of the board of public improvements be favorable to the project an ordinance or resolution authorizing the same may be passed in the usual manner; but, if the report of the board of public improvements be unfavorable, an ordinance or resolution authorizing the project shall be passed only by a vote of five-sixths of both houses of the municipal assembly, and be approved by the mayor.]

[Municipal assembly;] Board of aldermen; further restrictions.

§ 418. [424.] It shall not be lawful for the [municipal assembly] board of aldermen to release any contractor with the city or with any of the departments, boards, bureaus or officers thereof, from any fine or penalty incurred under his contract, save upon the unanimous recommendations of the board of [public improvements] estimate and apportionment. And it shall not be lawful for the [municipal assembly] board of aldermen to extend the time for the performance of any such contract save upon the unanimous recommendation of the board of estimate and apportionment. [board of public improvements.]

Contracts for work or supplies.

§ 419. 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 borough presidents, departments or bureaus, shall be made by the appropriate borough presidents or heads of departments under such regulations as shall be established by ordinance or resolution of the [municipal assembly.] board of aldermen. 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 City of New York, 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 or resolution of the **【municipal assembly】** board of aldermen, excepting such works now in progress as 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 **【municipal assembly:】** board of aldermen; and all contracts shall be entered into by the appropriate borough president, and heads of departments, and shall, except as herein otherwise provided, be founded on sealed bids or proposals, made in compliance with public notices, duly advertised in the City Record, and the corporation newspapers, and said notice to be published at least ten days; if a borough president or the head of a 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, unless the board of estimate and apportionment **【public improvements】** by **【the vote of a majority of its members, of whom the mayor and the comptroller shall be two,】** a three-quarter vote of the whole board, shall determine that it is for the public interest that a bid other than the lowest should be accepted; the terms of such contract shall be settled by the corporation counsel as an act of preliminary specification to the bid or proposal. The bidder whose bid is accepted 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 officer or 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 whose bid has been accepted 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 appropriate borough president or 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 City of New York upon debt or contract, or who is a defaulter, as surety or otherwise, upon any obligation to the city. 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; together with a copy of the resolution or ordinance of the [municipal assembly, or of the resolution of the] board of aldermen and the local board [board of public improvements,] and together with the approval of the board of estimate and apportionment wherever the same is required by the provisions of this act, or copies of both, as the case may be, authorizing said work; such copies shall be so filed within five days after the contract shall have been duly executed by the contractor; a receipt for each payment, made on account of or in satisfaction of the same, shall be endorsed 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 appropriate borough president or the head of the appropriate department, and the expenditure has been duly authorized and appropriated.

Proposals to be advertised; deposit to accompany bid.

§ 420. 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 state or 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 centum 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 whom the contract is to be awarded, the comptroller shall return all the deposits made to the persons making the same, except the deposit made by the bidder whose bid has been accepted; and if the said bidder whose bid has been accepted shall refuse or neglect, within five days after due notice that the contract has been awarded, to execute the same, or to furnish the required bond, 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 city, but if the said bidder shall execute the contract and furnish the required bond within the time aforesaid, the amount of his deposit shall be returned to him.

Certificate of completion to be filed.

§ 421. It shall be the duty of **[each]** any borough president, or head of any department, [of the commissioners mentioned in section four hundred and ten, of this act,] having in charge any work, within five days after the acceptance of such work, to file with the comptroller a final certificate of the completion and acceptance thereof, signed by the chief engineer or head of his department. The filing of such certificate shall be presumptive evidence that such work has been completed according to contract. It shall also be the duty of such borough president, or head of department, [commissioner,] in the case of work to be paid for in whole or in part by assessment for benefit, when such work shall have been completed and accepted, and all the expenses thereof which may be legally assessed shall have been ascertained, to execute a certificate of the total amount of all the cost and expenses which shall have been actually incurred by The City of New York on account of such work and forward the same to the board of assessors in accordance with section nine hundred and forty-six of this act. Accompanying said certificate shall be a copy of the resolution of the board of estimate and apportionment or of the resolution or ordinance of the [municipal assembly,] board of aldermen, or of the resolution of the local board or department, [board

of public improvements,] or copies of any or such of them as may be required, [both, as the case may be,] authorizing such work to be done, and also a copy of any resolution or ordinance, if any such has been passed, determining that any proportion of the cost and expense of such work shall be borne by The City of New York. The board of assessors shall, upon receiving such certificate, assess upon the property benefited, in the manner authorized by law, the amount of the certificate, or such proportions thereof, as is authorized by law. The proceedings relative to levying, confirming and collecting any such assessments shall be in accordance with the provisions of chapter seventeen of this act.

Comptroller to pay contractors.

§ 422. [423.] When a contract for a public improvement shall have been entered into and a certified copy thereof shall have been filed with the comptroller, in conformity with section four hundred and nineteen of this act, said comptroller is hereby authorized and directed to pay to the contractor or his assigns, from time to time as the work progresses, seventy per centum of the estimated value of the work actually done under said contract, until the same shall have been completed. The estimate of the value of any such work shall be signed by the surveyor and also by the chief engineer of the department having the matter in charge, and upon the final completion of any contract, and the filing of the final certificate of completion, the comptroller shall, within thirty days thereafter, or within thirty days after the expiration of the time within which according to the terms of the contract, the city has to accept such work, pay to the contractor or his assigns, the balance of the amount due under said contract, provided, however, that the [municipal assembly] board of aldermen, upon the recommendation of the board of [public improvements] estimate and apportionment, may authorize contracts for asphalt or other pavements to be made, with a guaranty upon the part of the contractor for one or more years, with a provision for the retention of a percentage of the amount to be paid, which shall be paid within thirty days after the expiration of the guaranty, upon the filing of a cer-

tificate signed by the chief engineer of the department having the matter in charge that the terms of the contract have been complied with. The payments to be made by the comptroller pursuant to this section shall be made out of the "street improvement fund," if the cost and expense of said work are to be assessed in whole or in part upon property deemed to be benefited thereby. The amounts collected from any and all assessments for local improvements paid out of such fund, together with all defaults and interest on the same, are to be paid into said fund. 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 the corporate stock of The City of New York as shall be necessary to provide for the cost and expense of such work, or such part thereof as is to be borne and paid by The City of New York; and the proceeds of the sale of such stock shall be paid into the street improvement fund.

TITLE 2.

Local Boards.

Districts of local improvements.

§ 425. [390.] For the purposes of local improvements the territory of The City of New York is hereby divided into [certain] twenty-five districts of local improvements. [The districts so constituted shall be named or numbered or otherwise distinguished by the municipal assembly. As first constituted by this act there shall be twenty-two districts of local improvements which shall together comprise all of the territory by this act consolidated into The City of New York. The territory in each of the senatorial districts of the state of New York, situated in whole or in part within the limits of The City of New York, as constituted by this act, as such districts are divided by the constitution of the state of New York in force January the first, eighteen hundred and ninety-five, and to the extent that they are within the limits of said city, and as therein bounded and described, shall constitute a separate district of local improvements, that shall be bounded and described in the same terms as is the same territory when contained in a senatorial district, as aforesaid. The municipal assembly

shall, whenever necessary, supplement and complete the description of the boundaries of any district.】 The first district shall consist of the county of Richmond, and shall be called Staten Island; the second district shall consist of wards one and two of the borough of Queens and shall be called Newtown; the third district shall consist of wards three, four and five of the borough of Queens and shall be called Jamaica; the fourth district shall consist of the territory comprised in the third senatorial district of the state of New York, as such district is divided by the constitution of the state of New York, in force January first, eighteen hundred and ninety-five, and shall be called The Heights; the fifth district shall consist of the territory comprised in the fourth senatorial district of the state of New York, and shall be called Bedford; the sixth district shall consist of the eighth, thirtieth and thirty-first wards of the borough of Brooklyn, and shall be called New Utrecht; the seventh district shall consist of the tenth and twelfth wards of the borough of Brooklyn and shall be called Red Hook; the eighth district shall consist of the territory comprised in the sixth senatorial district of the state of New York and shall be called Carlton; the ninth district shall consist of the territory comprised in the seventh senatorial district of the state of New York and shall be called Williamsburg; the tenth district shall consist of the territory comprised in the eighth senatorial district of the state of New York, and shall be called Flatbush; the eleventh district shall consist of the territory comprised in the ninth senatorial district of the state of New York and shall be called Bushwick; the twelfth district shall consist of the territory comprised in the tenth senatorial district of the state of New York and shall be called Bowling Green; the thirteenth district shall consist of the territory comprised in the eleventh senatorial district of the state of New York and shall be called The Bowery; the fourteenth district shall consist of the territory comprised in the twelfth senatorial district of the state of New York and shall be called Corlear's Hook; the fifteenth district shall consist of the territory com-

prised in the thirteenth senatorial district of the state of New York, and shall be called Greenwich; the sixteenth district shall consist of the territory comprised in the fourteenth senatorial district of the state of New York and shall be called Kip's Bay; the seventeenth district shall consist of the territory comprised in the fifteenth senatorial district of the state of New York and shall be called Central; the eighteenth district shall consist of the territory comprised in the sixteenth senatorial district of the state of New York and shall be called Chelsea; the nineteenth district shall consist of the territory comprised in the seventeenth senatorial district of the state of New York and shall be called Riverside; the twentieth district shall consist of the territory comprised in the eighteenth senatorial district of the state of New York and shall be called Yorkville; the twenty-first district shall consist of the territory comprised in the nineteenth and twenty-first districts of the state of New York and shall be called Bloomingdale; the twenty-second district shall consist of the territory comprised in the thirty-first and twenty-third assembly districts of the state of New York and shall be called Washington Heights; the twenty-third district shall consist of the territory comprised in the twentieth and that part of the twenty-first senatorial district of the state of New York in the borough of Manhattan and shall be called Harlem; the twenty-fourth district shall consist of the territory comprised in the twenty-first senatorial district of the state of New York west of the Bronx river and shall be called Morrisania; the twenty-fifth district shall consist of the territory comprised in the twenty-second senatorial district of the state of New York east of the Bronx river and shall be called Chester. Provided, however, that none of the above-mentioned boundaries shall include any portion of a senatorial district not contained within the limits of the city. The board of aldermen may, whenever necessary, supplement and complete the description of the boundaries of any district, but such districts shall not be affected by any change in the senatorial districts.

The local board; how constituted; jurisdiction.

§ 426. [391.] There shall be in each and every district of local improvements a board of local improvements to be known and described as "the local board," to be entrusted with the powers by this act prescribed. The jurisdiction of each local board shall be confined to the district for which it is constituted, and to those subjects or matters the costs and expenses whereof are in whole or in part a charge upon the people or property of the district or a part thereof, except so far as by this act jurisdiction may otherwise be given over matters of local administration within such district. Each local board shall consist of the president of the borough wherein the district is situated, by virtue of his office, and of each member of the [municipal assembly,] board of aldermen who represents an aldermanic district within [is a resident of] such local improvement district, by virtue of his office and during his term as such member. [Removal from the district shall vacate their offices as members of the said local board.] The members of the local board shall serve as such members without compensation. If any proposed local improvement specified in section [three hundred and ninety-three] four hundred and twenty-eight of this act shall embrace the territory or affect the property of more than one district of local improvements, the members of the local boards of all the districts so affected shall, for all proceedings in the matter of such improvement, constitute the local board for the purposes thereof, and its proceedings shall in all respects conform to the provisions of this act that regulate the proceedings of any other local board.

Id.; procedure.

§ 427. [392.] The action of a local board shall be by resolution, subject to the procedure governing resolutions passed by the [municipal assembly] board of aldermen and conformably thereto save that they need not be submitted to the mayor of The City of New York for his approval [.] except as provided in the next section. Every resolution of a local board shall, before it takes effect, be approved by the borough president.

Id.; powers.

§ 428. [393.] A local board, subject to the restrictions provided by this act, shall have power in all cases where the cost of the improvement is to be met in whole or in part by assessments upon the property benefited, to [recommend that proceedings be initiated to] initiate proceedings for the following purposes: to construct tunnels and bridges lying wholly within the borough; to acquire title to land for parks and squares, streets, sewers, tunnels and bridges, and approaches to bridges and tunnels; to open, close, extend, widen, grade, pave, regrade, repave and repair the streets, avenues and public places, and to construct [lateral] sewers within the district; to flag or reflag, curb or recurb the sidewalks, and to relay crosswalks on such streets and avenues; to set or to reset street lamps; and to provide signs designating the names of the streets. All resolutions affecting more than one local improvement district or the borough generally, shall be adopted only at a joint meeting of all the local boards of the borough, and by a majority of the members of said boards.

Id.; further powers.

§ 429. [393.] [A local board, subject to the restrictions provided by this act, shall have power in all cases where the cost of the improvement is to be met in whole or in part by assessments upon the property benefited, to recommend that proceedings be initiated to open, close, extend, widen, grade, pave, regrade, repave and repair the streets, avenues and public places, and to construct lateral sewers within the district; to flag or reflag, curb or recurb the sidewalks, and to relay crosswalks on such streets and avenues; to set or to reset street lamps; and to provide signs designating the names of the streets.] A local board shall have power to hear complaints of nuisances in streets or avenues, or against disorderly houses, drinking saloons conducted [without observance of the licenses therefor], in violation of the laws regulating the traffic in liquor, gambling houses or any other places or congregations violative of good order or of the laws of this state, or other matters or things concerning the

peace, comfort, order and good government respecting any neighborhood within the district, or concerning the condition of the poor within the district, and to pass such resolutions concerning the same as may not be inconsistent with the powers of the [municipal assembly] board of aldermen or of the respective administrative departments of The City of New York, and to aid such [municipal assembly] board of aldermen and departments in the discharge of their duties respecting the good government of the said district. All resolutions passed under the authority of this section shall be submitted to the Mayor; and if he shall within ten days thereafter declare the same to be general in character, they shall be invalid; otherwise, they shall take effect upon the expiration of said period of ten days.

Id.; meetings; secretary; quorum.

§ 430. [394.] Meetings of each local board shall be held at the main hall or public building of the borough. It shall be the duty of the president to call such meetings whenever in his opinion the public business shall require, or whenever he shall receive the written request of any three members of a local board. The secretary of the president of the borough shall act as the secretary of each local board, in the borough, without additional compensation. He shall keep a record of all resolutions, proceedings and determinations of each local board, and shall file the same in the office of the president of the borough, and he shall discharge such other duties as may be prescribed by this act, or by the [municipal assembly] board of aldermen, or by the president of the borough, or by a local board. The president of a local board and one other member thereof shall constitute a quorum for the transaction of business at any meeting duly called.

TITLE 3.

*Local Improvements.***President; duty on receipt of petition.**

§ 432. [400.] When a petition for a local improvement within the jurisdiction of a local board has been received by the president of the borough, it shall be his duty to appoint a time for a meeting of the proper local board, not more than fifteen days thereafter, at which meeting such petition will by him be submitted to the said local board, and he shall thereupon cause a notice to be published in the City Record, that such petition has been presented to him and is on file in his office for inspection, and of the time when and of the place where there will be a meeting of the local board at which such petition will be submitted by him, to said board, which time shall not be less than ten days after the publication of the notice.

Local board; proceedings after petition.

§ 433. [401.] The local board, after the submission of such petition and consideration of the same, may then, as the petition shall ask, [recommend that proceedings be initiated] pass a resolution to bridge, to tunnel, to open, to close, to extend, to widen, to regulate, to grade, to curb, to gutter, to flag, and to pave streets, to lay crosswalks, and to construct [lateral] sewers within its district, and generally for such other improvements in and about such streets within its district as the public wants and convenience of the district shall require.

Id.; to transmit resolution; further procedure; expenses to be a lien.

§ 434. [402.] If the local board shall by resolution decide [to recommend] that proceedings be initiated for a local improvement within its jurisdiction, it shall thereupon, forthwith, transmit a copy of such resolution to the board of [public improvements] estimate and apportionment. Said board shall promptly consider such resolution, and approve or reject the same, and return said resolution if approved to the president of the borough, where it originated, and he may thereupon proceed in the execution of the work covered by said resolu-

tion in accordance with the provisions of this act; but no public work or improvement, involving an assessment for benefit, shall be so authorized until there has been presented to the board of estimate and apportionment an estimate in writing, in such detail as the board may direct, of the cost of the proposed work or improvement, and a statement of the assessed value, according to the last preceding tax-roll, of the real estate included within the probable area of assessment. [and if, in its opinion, the work proposed ought to be proceeded with, it shall take such steps in regard thereto as are in this act provided in the cases where public works are proposed and initiated by said board of public improvements.] The expense of all such improvements shall be assessed and be a lien on the property benefited thereby in proportion to the amount of said benefit; but no such work shall be done by the borough president on any item which imposes a charge upon the whole city of more than five hundred thousand dollars, except with the approval of the board of aldermen. [and in no case shall extend beyond the limits of said district.]

Local boards; power to flag sidewalks, etc.

§ 435. [403.] A local board shall have the power to cause the flagging or reflagging of sidewalks, laying or relaying of crosswalks, fencing vacant lots, digging down lots or filling in sunken lots within its district, by resolution approved by the board of [public improvements] estimate and apportionment; provided, however, that when the expenses to be incurred by any one such resolution shall not exceed the sum of two thousand dollars, the approval of the board of estimate and apportionment shall not be necessary. When such public work or improvement shall have been duly authorized, the [board of public improvements shall direct the proper department to] president of the borough within which such work is to be done shall proceed forthwith in the execution thereof. [as in cases where public works are proposed and initiated by said board of public improvements.]

Power to assess for local improvements.

§ 436. [422.] In all cases where the board of estimate and apportionment [public improvements] or the [municipal assembly] board of aldermen or the board of [public improvements] estimate and apportionment, and the [municipal assembly] board of aldermen together, with or without the concurrence or approval of any other board or officer, are authorized to determine that a local improvement is to be made, the said board of estimate and apportionment or the said [municipal assembly,] board of aldermen, or both, as the case may be, shall determine whether any, and if any, what proportion, of the cost and expense thereof shall be borne and paid by The City of New York, and the remainder of such cost and expense shall be assessed upon the property deemed to be benefited thereby; and the assessment shall be laid [out] and confirmed and collected in accordance with the provisions of chapter seventeen of this act. The determination or decision of such board as to the proportion of cost and expense to be borne and paid by The City of New York, and as to the proportion to be borne by the property benefited, after it shall have been made and announced, shall be final, and such determination or decision shall not be reopened or reconsidered by said board. The words "local improvement" as used in this section shall be construed to mean any work the payment of which was, prior to the passage of this act, provided for, by the laws in force in the territory of the corporation formerly known as the mayor, aldermen and commonalty of the city of New York, in whole or in part, by assessment upon the property deemed to be benefited thereby or the owners thereof, other than assessments which are confirmed by a court of record.

Construction of this title.

§ 437. [404.] Nothing in this title contained shall be construed to in any way limit the power of the board of aldermen [public improvements or of the municipal assembly or of the board of public improvements and the municipal assembly conjointly,] in authorizing any public improvement. [nor shall anything herein contained be construed to authorize any local board to incur any expenditures other than as authorized by the board of estimate and apportionment.]

TITLE [2.] 4.

*The Map or Plan of The City of New York, Establishing of Grades, Changes Therein, Map of Sewer System, and Sewer Districts.***The map of The City of New York.**

§ 438. [432.] The map or plan of the territory lying within the borough of Manhattan, as heretofore laid out, adopted and established by the municipal authorities of the corporation known as the mayor, aldermen and commonalty of the city of New York, and the map or plan of that part of the territory lying within the borough of The Bronx, laid out by the commissioner of street improvements of the twenty-third and twenty-fourth wards pursuant to chapter five hundred and forty-five of the laws of eighteen hundred and ninety, and the acts amendatory thereof, as heretofore duly laid out, adopted and established by such commissioner, with the concurrence and approval of the board of street opening and improvements pursuant to law, and the map or plan of so much of the territory lying within the borough of Brooklyn, for which a permanent map or plan has been adopted, as heretofore duly laid out, adopted and established by the proper municipal authorities, and the map or plan of so much of the territory lying within the borough of Queens, for which a permanent map or plan has been adopted by the proper municipal authorities of Long Island City, as so laid out, adopted and established, showing the parks, streets, bridges and tunnels, and approaches to bridges and tunnels, as heretofore laid out, adopted and established pursuant to law, and the maps and profiles included in or accompanying the same, showing the grades of such streets duly fixed, adopted and established, shall constitute the map or plan of The City of New York to the extent and so far as they cover the territory lying within the said city, and as such is hereby laid out, adopted, established and confirmed, is to be deemed final and conclusive with respect to the location, width and grades of the streets shown thereon, so far as such location, width and grades have been heretofore duly adopted, except as herein otherwise provided.

Map to be completed.

§ 439. [433.] It shall be the duty of the president of each borough comprised within The City of New York, as consti-

tuted by this act, [the board of public improvements,] subject to the limitations hereinafter provided, to prepare a map of [so much] that part of the territory embraced within the borough of which he is president, [The City of New York, as constituted by this act,] of which a map or plan has not heretofore been finally established and adopted, as set forth in section four hundred and thirty-[two]eight of this act, locating and laying out all parks, streets, bridges, tunnels and approaches to bridges and tunnels, and indicating the width and grades of all such streets so located and laid out. It shall be the duty of the president of each borough under the direction of the mayor to continue and complete the system of exact triangulation inaugurated in the borough of The Bronx, over that part of the borough of which he shall be president, of which no map or plan has heretofore been established and approved, provided that such system of triangulation, after the most approved and exact method, shall be finished before the first day of January, nineteen hundred and seven. The duty of conducting such system of triangulation shall be entrusted only to a civil engineer who shall have had at least five years' experience in the method and manner of precise surveying, and whose fitness and competency shall have been determined in a civil service examination. He shall prepare and furnish, for primary stations, the latitude and longitude determined in conformity with the method used by the United States Coast and Geodetic Survey; for secondary stations, the rectangular spherical co-ordinates; and for all stations, rectangular co-ordinates referred to a given fixed central meridian, or assumed meridian. Such co-ordinates shall be official and binding upon all officers making any map or plan relating to any borough or part thereof. Whenever and as often as the president of any borough [the board of public improvements] shall have completed the map of a part of the territory aforesaid, he shall report the same together with the surveys, maps and profiles, showing the parks, streets, bridges, tunnels, and approaches to bridges and tunnels, located and laid out by him, and the grades thereof, to the board of estimate and

apportionment [public improvements,] for its concurrence and approval, subject, nevertheless, to such corrections or modifications as in the judgment of the majority of said board may be advisable; and the said board thereafter shall cause such map or plan, and such profiles, as finally adopted by it, to be certified by the president and secretary of said board, and filed as follows: One copy thereof in the office in which conveyances of real estate are required to be recorded in the county in which the territory shown upon such map is located; one copy thereof in the office of the corporation counsel, and one copy thereof in the office of the president of the borough, who shall have prepared such map. [board of public improvements.]

Such map and profiles, when so adopted and filed, shall become a part of the map or plan of The City of New York, and shall be deemed to be final and conclusive with respect to the location, width and grades of the streets shown thereon, and the same shall not be subject to any further change or modification except as provided in section four hundred and [thirty-six] forty-two of this act; provided, however, that the local boards at a joint meeting of all the boards comprised within the borough for which said map was adopted, [board of public improvements,] within three months after the opening of a street, shall have the power to alter the grade of such street, and to alter the grades of intersecting streets, so far as it may be necessary to conform the same to new grades of the street opened.

President may be required to complete map.

§ 440. [434. The board of public improvements,] The board of estimate and apportionment, [or the municipal assembly,] with the approval of the mayor, may at any time require the president of any borough [the board of public improvements] to complete the map or plan of the whole or of a part of the territory for which the map or plan shall not at such time have been finally established and adopted as specified in sections four hundred and thirty-[two]eight and four hundred and thirty-[three]nine of this act, and to report the same to the board of estimate and apportionment [board of public improvements,] within a fixed and specified time.

Grades established by user.

§ 441. [435.] Whenever any street in The City of New York shall have been used as such for upwards of twenty years without having the grade thereof established by law, the level or surface of such street as so used shall be deemed to be and to have been the grade thereof.

Authority to change the map or plan of the city or to change grades.

§ 442. [436.] The board of estimate and apportionment [public improvements] is authorized and empowered, whenever and as often as it may deem it for the public interest so to do, to initiate a change in the map or plan of The City of New York, so as to lay out new streets, parks, bridges, tunnels and approaches to bridges and tunnels and parks, and to widen, straighten, extend, alter and close existing streets, and to change the grade of existing streets shown upon such map or plan, by publishing notice of its proposed action for ten days, in the City Record and the corporation newspapers, and giving an opportunity for all persons interested in such change to be heard, at a time and place to be specified in such notice, such time to be not less than ten days after the first publication of such notice. After the due publication of such notice, and after hearing protests and objections, if any there be, against the proposed change, if the said board shall favor such change, notwithstanding such protests and objections, it shall transmit its resolution to that effect to the [municipal assembly,] board of aldermen, together with the objections, if any, which have been made in writing, and filed with it, and a statement of its reasons for such determination. If [both houses of the municipal assembly] the board of aldermen concur in such resolution passed by the board of estimate and apportionment [of public improvements,] by passing an ordinance adopting and approving the same by a two-thirds vote, and the same receives the approval of the mayor, such change in the map or plan of The City of New York, or in the grade of any street or streets shown thereon, shall be deemed to have been made. The board of estimate and apportionment [public improvements] is authorized and empowered without the concurrence of [municipal assembly,] board of aldermen, but with the ap-

proval of the mayor, to change the grades of bridges, tunnels, and approaches to bridges and tunnels, and the location of approaches to bridges and tunnels.

Maps of city to be kept in office of corporation counsel and office of borough presidents; [of board of public improvements;] maps showing changes where filed.

§ 443. [437.] The map or plan of The City of New York or a certified copy thereof, showing the streets and parks within The City of New York as constituted by this act, shall be kept, one copy thereof in the office of the corporation counsel and one copy thereof so far as the same shall apply to any one borough in the office of the [board of public improvements.] borough president of such borough. Whenever the map or plan of The City of New York, as heretofore laid out, adopted, established and confirmed by this act, or as hereafter laid out, adopted and established pursuant to this act, shall be changed, and whenever the grade of any street shown thereon shall be changed, the board of estimate and apportionment [public improvements] shall forthwith cause the maps and profiles, showing such change in the map or plan of The City of New York, or in the grade of a street or streets shown thereon, to be certified by the secretary of said board and filed as follows: One copy thereof in the office in which the conveyances of real estate are required to be recorded in the county in which the territory shown upon said copy is located; one copy thereof in the office of the corporation counsel, and one copy thereof [in the office of the board of public improvements.] so far as the same shall apply to any one borough, in the office of the president of such borough.

Drainage and sewer system to be completed.

§ 444. [438.] It shall be the duty of the said president of each borough [the board of public improvements, together with the commissioner of sewers, and] subject to the approval of the board of estimate and apportionment, [public improvements,] to devise and prepare, so far as the same has not already been done, a plan for the proper sewerage and drainage of the borough of which he is president [the whole of

said city,] for the purpose of thoroughly draining and carrying off water and other matter proper to be carried off by sewers. The president of the borough of Brooklyn and president of the borough of Queens shall confer as to such part of such plan for each borough as shall adjoin the other, and shall endeavor to make said plans harmonize with each other so far as may be. The said president of each borough [and commissioners] shall, so far as the same has not already been done, and subject to the like approval, lay out the [said city] borough of which he is president, 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 depth 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.

Drainage plan to be filed.

§ 445. [439.] Upon the completion of the map or plan for the drainage of any sewerage district and its approval by the board of [public improvements,] estimate and apportionment, such map or plan shall be the permanent plan for the sewerage of such district; subject, however, to such subsequent modifications as may, in the opinion of the [commissioner of sewers] president of the borough to which said plan shall apply, and the board of [public improvements,] estimate and apportionment, become necessary in consequence of alterations made in the location of grade of any street or part thereof in said district, or for other reasons. Copies of such complete map or plan and of the maps showing modifications therein shall be certified by the [president] mayor and the secretary of the board of [public improvements] estimate and apportionment and shall be filed as follows: One copy thereof in the office in which conveyances of real estate

are required to be recorded in the county in which the territory shown upon said map is located; one copy thereof in the office of the corporation counsel, and one copy thereof in the office of the [board of public improvements.] president of the borough to which said plan applies.

All sewers to be in accordance with general plan.

§ 446. [440.] 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, approved [by the board of public improvements] as aforesaid, for the sewerage of the particular district in which such sewer or drain is proposed to be constructed.

Raising of grade for drainage.

§ 447. [441.] Whenever the [commissioner of sewers shall report to the board of public improvements] president of any borough shall determine that it is necessary to raise the grade of any street or streets for the proper sewerage of the sewer district in which such street or streets, or parts of streets, are situated, the said [board] president shall prepare a plan showing said proposed change of grade; and shall present the same to the board of estimate and apportionment, which said board is hereby authorized and empowered to change the grade of such street or streets, or parts of streets, so far as shall be necessary for the proper drainage thereof [.] in accordance with said plan.

Power to mark boundaries and to make surveys.

§ 448. [442.] The [president of the board of public improvements] mayor shall have power to direct the president of any borough to mark any boundary line or lines of the municipal corporation constituted by this act and known as The City of New York, as said boundary line or lines is or are determined in and by this act, so as to distinguish and define the boundaries of said city, the boundaries of the boroughs thereof, and any other boundary line or lines determined in and by this act, by such monuments as may be authorized by [resolution of the

board of public improvements] the mayor. [He] The president of any borough shall upon the request of the board of aldermen, [public improvements, of the municipal assembly] of a local board, of commissioners of estimate, or of commissioners of estimate [.] and assessments, furnish surveys, diagrams or other information as may enable them to fully discharge the duties imposed upon them by this act relative to street and park improvements. It shall be lawful for the president of [the board of public improvements,] any borough, and all persons acting under his authority, to enter in the day time into and upon any lands, tenements and hereditaments and waters which he shall deem necessary to be surveyed, used or converted for the laying out, surveying and monumenting of parks, streets, bridges, tunnels, and approaches to bridges and tunnels, in The City of New York, or for marking any boundary line or lines.

President to appoint surveyor; appropriations to be made for maps, etc.

§ 449. [443.] The president of [the board of public improvements] each borough shall have power to appoint a surveyor or engineer who shall have the custody of the maps filed in the office of the [board of public improvements] president of said borough, [and to fix his salary within the proper appropriation]. There shall be made in the final estimate each year such provisions or appropriations as may be necessary for the preparation and making of maps, plans and profiles, and for the setting of monuments. [and the president of the board of public improvements shall be authorized, within the limits of such provision or appropriation, to employ such engineers, surveyors, clerks and assistants as may in his judgment be necessary for any part of such work.]

CHAPTER XI.

DEPARTMENTS OF WATER SUPPLY, GAS AND ELECTRICITY, STREET CLEANING AND BRIDGES.

Title 1. General provisions.

Title 2. Department of water supply, gas and electricity.

Title 3. Department of street cleaning.

Title 4. Department of bridges.

TITLE [3.] I.

General Provisions [Relating to the Departments of Water Supply, Highways, Street Cleaning, Sewers, Public Buildings, Lighting and Supplies, and Bridges.]

Heads of departments.

§ 450. Each of the commissioners hereinafter provided for in this chapter shall in all respects administer his department in conformity with the ordinances of the [municipal assembly] board of aldermen relating thereto, and each shall be vested with the sole executive power in his department, and be subject to the laws of the state and the ordinances of the city for the conduct and the work of his department.

Deputies.

§ 452. The commissioner at the head of each of said departments may appoint one [or more] deputy commissioner[s one of whom] who shall be located at the main office of such department, and there may be a deputy in each borough in which is located a branch office of such department, if provision is made therefor by the board of estimate and apportionment and the board of aldermen. [or the same deputy may have charge of more than one borough, as the commissioner appointing such deputy may deem advisable.] A deputy com-

missioner located at a branch office shall, under the direction and control of the commissioner appointing him, have charge of the office work of his department in the borough or boroughs for which the office was established, and of the execution of all work devolved upon his department therein. The commissioner at the head of each of said departments may designate one or more of said deputies, who shall, in addition to his other powers, possess every power and perform all and every duty belonging to the office of such commissioner, so far as specified in such designation, whenever so empowered by such commissioner by written authority, designating therein a period of time, not extending beyond a period of three months nor beyond the term of office of such commissioner, during which such power and duty may be exercised, and such designation and authority shall be duly filed in and remain of record in said department, but may be revoked at any time. A deputy commissioner so designated shall possess the like authority in case of absence or disability of such commissioner.

Engineers.

§ 453. The commissioner at the head of each of said departments, excepting the department of street cleaning, may [shall] appoint and at pleasure remove a chief engineer of his department, with power to appoint, remove, and detail a staff of assistant engineers. If the commissioner of any department [and the board of public improvements] deem it advisable that more than one chief engineer be appointed for such department, such commissioner, when authorized by the board of estimate and apportionment and the board of aldermen, may [shall] appoint such additional chief engineers, each with power to appoint and remove at pleasure, and detail a staff of assistant engineers. All chief engineers and assistant engineers appointed by them respectively, must be civil engineers of at least ten years' experience. An engineer located at a branch office of his department in any borough may be appointed a deputy commissioner for the borough or boroughs to which he is assigned. An assistant engineer who has been appointed a deputy commissioner may be designated as the engineer for the borough in which he acts as deputy. Any engineer may be designated by such title as shall properly describe his principal duties in the judgment of the head of his department.

Consulting engineers.

§ 455. [The commissioner of water supply, the commissioner of highways, and the commissioner of sewers, shall each appoint, without definite term, when thereto authorized by the board of public improvements, a consulting engineer to their respective departments, who shall be an expert in all matters relating to the work performed by the department in which he is appointed and who shall have had at least fifteen years' experience as a civil engineer. The commissioner of public buildings, lighting and supplies shall appoint (each without definite term) when thereto authorized by the board of public improvements, a consulting engineer of lighting and electricity to his department, who shall be an expert in all matters relating to lighting and electricity, and whose training shall also have included instruction in the capacity of civil engineer, and a consulting engineer of public buildings to his department, who shall be an expert in the matter of construction, repair and maintenance of public buildings, and a consulting architect to his department, who shall be an architect of recognized scientific and artistic standing of not less than fifteen years' experience.] The commissioner of bridges [shall] may at any time employ [appoint, without definite term], when thereto authorized by the board of [public improvements] estimate and apportionment and the board of aldermen, a consulting engineer, who shall be a recognized expert in bridge construction, and who shall have had not less than fifteen years' experience as a civil engineer. The commissioner of water supply, gas and electricity may at any time employ, when thereto authorized by the board of estimate and apportionment and the board of aldermen, a consulting hydraulic engineer to his department of at least fifteen years' experience as a civil engineer, and a consulting engineer of lighting and electricity to his department, who shall be an expert in all matters relating to lighting and electricity, and whose training shall also have included instruction in the capacity of civil engineer.

Commissioners; power to appoint, etc.

§ 459. If the commissioners of two or more departments named in this chapter shall at any time determine that the

duties of the chief engineer or the deputy commissioner in each of said two or more departments in and for any borough can be adequately performed by one and the same person, then it shall be lawful for said commissioners, each acting in his department, to appoint the same individual as chief engineer or deputy commissioner, or both, of such departments for any of said boroughs; such appointment as chief engineer may be revoked by the proper commissioner or commissioners, respectively, as to all but one department. [whenever the board of public improvements shall so authorize; and the board of public improvements shall also then determine and decide for which department the said person shall remain and shall be chief engineer.]

Transfer of employees from borough to borough and from department to department.

§ 460. Nothing in this act contained shall be construed to limit in any way the power of the commissioner at the head of any one of the departments named in this chapter to transfer any employee or employees from the office of his department located in one borough to the office of his department in any other borough. [It shall be lawful for the board of public improvements to transfer employees of one of the departments named in this chapter to another of said departments, provided that in each case the heads of the departments affected shall consent to and request such transfer.]

Transfer of appropriations.

§ 461. No appropriation to any one of the departments named in this chapter, which is specifically appropriated to be used in one borough shall be transferred for expenditure in any other borough [except by the unanimous vote of] by the board of estimate and apportionment, except with the consent of the president of the borough from which the transfer is to be made; but if any public work within the cognizance and control of any one of said commissioners must be executed in more than one borough he may, in his discretion, direct that said work shall be done through the joint forces of his department in the boroughs affected, or he may execute such work with the force of his central office.

Definition of word "street."

§ 462. Whenever the word "street," or the plural thereof, occurs in this chapter, it shall be deemed to include all that is included by the term "street, avenue, road, alley, lane, highway, boulevard, concourse, public square and public place," or the plurals thereof, respectively.

TITLE [4.] 2.

Department of Water Supply [.], Gas and Electricity.**Commissioner of water supply[.], gas and electricity; appointment; salary.**

§ 468. The head of the department of water supply, gas and electricity shall be called the commissioner of water supply [.] gas and electricity. He shall be appointed by the mayor and hold office as provided in chapter four of this act. His salary shall be seven thousand five hundred dollars a year. The main office of the department shall be located in the borough of Manhattan. A branch office shall be located in the borough of Brooklyn and may be located in the borough of The Bronx.

Id.; jurisdiction.

§ 469. The commissioner of water supply, gas and electricity shall have cognizance and control:

1. Of all structures and property connected with the supply and distribution of water for public use, except the same shall be owned by private corporations, including all fire and drinking hydrants and all water meters.

2. Of maintaining the quality of the water supply, and of the investigation for, and the construction of all work necessary to deliver the proper and required quantity of water with ample reserve for contingencies and future demands.

3. Of the collection of the revenues from the sale or use of water from the public water supply.

4. Of the enforcing of the regulations concerning the use of water, and of recommending to the [board of public improvements] board of aldermen proposed ordinances relat-

ing to any of the matters within the province of his department.

5. Of the making and performance of contracts when duly authorized in accord with the provisions of this act, and for the execution of the same in the matter of furnishing the city, or any part thereof, with gas, electricity or any other illuminant or of steam; of the selecting, locating and removing and changing of lights for the use of the city; of the inspecting and testing of gas and electricity used for light, heating and power purposes, electric meters, electric wires and of all lights furnished to said city; and of the use and transmission of gas, electricity, pneumatic power and steam for all purposes in, upon, across, over and under all streets, roads, avenues, parks, public places and public buildings; of the construction of electric mains, conduits, conductors, and subways in any such streets, roads, avenues, parks and public places, and the granting of the permission to open streets, when approved by the borough president, and to open the same for the purpose of carrying on therein the business of transmitting, conducting, using and selling electricity, steam, or for the service of pneumatic tubes. This section shall not be construed to empower the said commissioner to grant permission to open or use the streets except by persons or corporations otherwise duly authorized to carry on business of the character above specified.

Id.; power when more than one borough involved.

§ 470. If any of the public work within the cognizance and control of the said commissioner of water supply, gas and electricity must be executed entirely outside of the city limits, [and] he may direct that such work be done by any of his force [of any borough] as may seem to him most advantageous.

Id.; restriction on power to contract.

§ 471. It shall not be lawful for the commissioner of water supply, gas and electricity to enter into any contract whatever

with any person or corporation engaged in the business of supplying or selling water for private or public use and consumption, unless, preliminary to the execution of the contract, the assent of the [board of public improvements, and the approval of the] board of estimate and apportionment, together with the separate written consent and approval of both the mayor and the comptroller of The City of New York of the proposed contract in all its details, shall be given by resolution to the execution of such contract as submitted, and it shall not be lawful for the said city of New York or for any department thereof, to make any contract touching or concerning the public water supply, and especially the increase thereof, with any person or corporation whatsoever, save in accordance with the provisions and requirements of this act, which said provisions and requirements are hereby declared to establish the exclusive rule for the making of such contracts. All proceedings relating to the making or approval of any such contract may be reviewed by the appellate division of the supreme court in the first or second department on the application of any resident taxpayer.

Id.; power to determine source of water supply; condemnation proceedings, etc.

§ 472. The commissioner of water supply, gas and electricity, with the approval of the board of [public improvements,] estimate and apportionment shall have power within and throughout the state of New York, to select and to determine all sources of water supply that may be needed for the supply of the public water-works of said city, and for the supply and distribution of water in said city. Any sources of water so selected and determined by him shall be deemed necessary for the public use of The City of New York, and thereupon, with the approval of the board of [public improvements and of the board of] estimate and apportionment, together with the authority of the [municipal assembly] board of aldermen expressed by its resolution or ordinance, it shall be lawful for The City of New York to acquire by condemnation any real estate or any interest therein that may be necessary in order to acquire the sole and exclusive property in such source or sources of water supply,

and to wholly extinguish the water rights of any other person or corporation therein, with the right to lay, relay, repair and maintain aqueducts, conduits and water pipes with the connections and fixtures on the lands of others, and, if necessary, to acquire by condemnation lands for such purpose in any county or counties through which it may be necessary to pass in conducting such waters to The City of New York; the right to intercept and to direct the flow of water from the lands of riparian owners, and from persons owning or interested in any water, and the right to prevent the flow or drainage of noxious or impure matters from the lands of others into its reservoirs or sources of supply, provided that [he] it shall not have power to acquire or to extinguish the property rights of any person or corporation in or to any water rights that [,] are in actual use at the time of the initiation of proceedings for condemnation for the supply of the water-works of the people of any other city, town or village of the state, or for the supply and distribution of waters to the people thereof; or which in the opinion of the court on such proceedings may reasonably become necessary for [were in whole or in part devoted to the] such supply [of the water-works of the people of any other city, town or village of the state, or to the supply and distribution of water to the people thereof,] or to take or use the water from any of the canals of the state, any canal reservoirs, or waters used exclusively as feeders for canals, or from any of the streams acquired by the state for supplying the canals with water. It shall be the duty of the corporation counsel to take the necessary legal proceedings, as provided in this act, for such improvement, upon the request in writing of the said commissioner of water supply. In the ascertainment of the compensation for any property or property rights so acquired, such compensation shall be based upon the actual values of the property or the interest acquired therein at the time of its taking, and there shall not be taken into consideration any prospective or speculative value, based upon the possible, probable or actual future use of such property, or property rights, if the same had not been acquired by the said city of New York for the public use. The commissioner of water supply, gas and electricity is hereby authorized to examine into the sources of

water supply of any private companies supplying The City of New York or any portion thereof or its inhabitants with water, to see that the same is wholesome and the supply is adequate, and to establish such rules and regulations in respect thereof as are reasonable and necessary for the convenience of the public and the citizens; and the [board of public improvements] said commissioner may exercise superintendence, regulation and control in respect of the supply of water by such water companies, including rates, fares and charges to be made therefor, except that such rates, fares and charges shall not, without the consent of the grantee, be reduced by the [board of public improvements] said commissioner beyond what is just and reasonable; and in case of a controversy, the question of what is just and reasonable shall be finally determined as a judicial question on its merits by a court of competent jurisdiction. The City of New York is authorized to acquire by purchase, lease, or otherwise, lands or water in any other state, or rights, interests, or privileges in, to or over any lands or water in any other state for the purpose of supplying water to The City of New York. Nothing in this section contained shall be deemed in any manner to limit the rights, property rights, power or jurisdiction now possessed by The City of New York in relation to the possession, maintenance, operation or completion of its present water system.

[Municipal assembly;] Board of aldermen; power to fix rents, etc., for water supply.

§ 473. The [municipal assembly] board of aldermen shall hereafter have all power, on recommendation of the [board of public improvements,] commissioner of water supply, gas and electricity, to fix and to establish a uniform scale of rents, and charges for supplying water by The City of New York, which shall be apportioned to different classes of buildings in said city in reference to their dimensions, value, exposures to fires, ordinary uses for dwellings, stores, shop, private stables and other common purposes, number of families or occupants, or consumption of water, as near as may be practicable, and modify, alter, amend and increase such scale from time to time, and to extend it to other descriptions of build-

ings and establishments. All extra charges for water shall be deemed to be included in the regular rents, which shall become a charge and lien upon the buildings upon which they are respectively imposed, and if not paid, shall be returned as arrears to the collector of assessments and arrears. Such regular rents, including the extra charges above mentioned, 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, including the extra charges aforesaid, shall become a charge and lien upon such houses and lots, respectively, as herein provided, but no charge whatever, shall be made against any building in which a water meter may have been or shall be placed as provided in this act. In all such cases the charge for water shall be determined only by the quantity of water actually used as shown by said meters.

Commissioner; power to contract for water supply for the twenty-fourth ward; duty in relation to.

§ 474. The commissioner of water supply, gas and electricity is authorized, on behalf of The City of New York, with the preliminary consent of the [board of public improvements and of the] board of estimate and apportionment, 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 and other parts of the borough of The Bronx, from the water-works, or water belonging to them or under their charge and control, for such time, in such quantities, and at such places as may be agreed upon by them. The said commissioner [of water supply] 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 said Twenty-fourth ward, or such part of it as may require or be in need of the same, and which cannot be, or in his judgment ought not to 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 [municipal assembly] board of aldermen is authorized to fix, and from time to time to alter, on the recommendation of the [board of public improvements,] said commissioner, special rates or charges for water supplied to any house or building, or to any other erection or structure, in said 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 collectible at the same time and in the same manner, including sales for unpaid taxes, as the ordinary tax imposed on the same lands.

Meters.

§ 475. The commissioner of water supply is authorized, in his discretion, to cause water-meters, the pattern and price of which shall be approved by the board of [public improvements,] aldermen, to be placed in all stores, workshops, hotels, manufactories, office buildings, public edifices, at wharves, ferry-houses, stables, and in all places in which water is furnished for business consumption, and, if authorized thereto by resolution or ordinance of the board of aldermen, in all apartment houses, tenements, flat houses and 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 water supply, 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 pro-

portion 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 water supply to the payment of expenses incurred in procuring, connecting and setting said meters.

Additional charge for non-payment of rent.

§ 476. The annual rents which are not paid to the department of water supply before the first day of August in each year shall be subject to an additional charge of five per centum, and those rates not paid before the first day of November in each year shall be subject to a further additional charge of ten per centum.

No valve, etc., to be used with royalty.

§ 477. No patent hydrant, valve or stopcock shall be used by the department of water supply unless the patentee or owner of said patent shall allow the use of the patent by said department without royalty.

Printed notice of rules and regulations.

§ 478. 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 may be imposed in addition to cutting off the use of the water for any violations of the rules, and this section shall be printed on such permits.

Commissioner[s]; duty in regard to sources of water supply and property of department.

§ 479. The commissioner of water supply, gas and electricity is charged with the preservation of all lakes and all waters

from which a water supply is drawn by the city, with the preservation of the banks of and of any river or other body of water from which the water supply is drawn, from injury or nuisance, and with the execution of such measures as may be necessary to preserve and increase the quantity of water and keep it pure and wholesome and free from contamination and pollution, with the management, preservation and repairs of the dams, gates, aqueducts, bridges, water towers, reservoirs, mains, pipes, pipeyard, 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 pipes as may be authorized in accordance with law. The department of water supply, gas and electricity shall be responsible for the supply of water and the good order and security of all the water-works, for the exactness and durability of the structures which may be erected, and for the daily work to be performed and for the sufficiency of the supply in the pipeyards to meet every casualty, and for the fidelity, care and attention of all persons employed by the department in watching the works, and in making constructions and repairs.

Assessment on lands used as reservoirs.

§ 480. 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, or for the purpose of preventing contamination or pollution, 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 aqueducts, and the construction and works necessary for its purposes, provided that the assessed value of the said lands shall not exceed the assessed value of the lands in the immediate neighborhood thereof. But nothing in this section contained shall prevent the assessors in the county of Nassau from assessing the pumping stations and buildings located in such county.

Certain acts misdemeanors.

§ 481. It shall not be lawful for any person to throw or deposit, or cause to be thrown or deposited in any lake, pond

or stream, or in any aqueduct from or through which any part of the water supply of The City of New York shall be drawn, or either of the reservoirs, any dead animal or other offensive matter, or anything whatever. Any person offending against the provisions of this section shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be punished by a 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 a period of three months. Such imprisonment to be in the jail of the county in which the offense shall have been committed.

Id.; continued.

§ 482. 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 city, 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 any river, lake or stream from which the water supply of said city shall be drawn, 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.

Duty of commissioner. [of water supply.]

§ 483. The commissioner of water supply, gas and electricity is hereby authorized, empowered and directed to carry out the provisions of this act, in the manner hereinafter provided, for the purpose of maintaining, preserving and increasing the supply of pure and wholesome water for the use of the city, and for the purpose of preventing or removing contamination or pollution of any supply or source or sources of supply of water heretofore acquired by or on behalf of said city, and for the purpose of preventing the contamination or pollution of any river, water course, lake, pond, stream or reservoir hereafter acquired for the purpose of supplying said city with water.

To take proceedings to acquire title.

§ 484. In all cases where the commissioner of water supply, gas and electricity shall hereafter enter upon, acquire,

take or use, or shall deem it necessary to enter upon, acquire, take or use, any "real estate," as the term real estate is defined by this act, for the purpose of maintaining, preserving or increasing the supply of pure and wholesome water for the use of said city, or for the purpose of preventing the contamination or pollution of the same, as hereinbefore set forth, the said commissioner is authorized, for and in behalf, and in the name of The City of New York, 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.

Definition of "real estate."

§ 485. The term "real estate" as used in this chapter shall be construed to signify and embrace all uplands, lands under water, the water of any lake, pond or stream, all water rights or privileges, and any and all easements and hereditaments, corporeal or incorporeal, and every estate, interest and right, legal and equitable, in lands or water, or any privilege or easement thereunder, including terms for years, and liens thereon by way of judgment, mortgages or otherwise, and also all claims for damage to such real estate. It shall also be construed to include all real estate (as the term is above defined) heretofore or hereafter acquired or used for railroad, highway or other public purpose, providing the persons or corporations owning such real estate, or claiming interests therein, shall be allowed the perpetual use, for such purposes, of the same or of such other real estate to be acquired for the purposes of this act as will afford practicable route or location for such railroad, highway or other public purpose, and in the case of a railroad commensurate with and adapted to its needs; and provided, also, that such persons, or corporations shall not directly or indirectly, be subject to expense, loss or damage by reason of changing such route or location, but that such expense, loss or damage shall be borne by the city. In case any real estate so acquired or used for public purposes is sought to be taken or affected for the purposes of this act, there shall be designated upon the maps referred to in this act, and there shall be described in the petition referred to, such portion of

the other real estate shown on said maps and described in said petition as it is proposed to substitute in place of the real estate then used for such railroad, highway or other public purposes. The supreme court, at the special term to which said petition is presented, or at such other special term as the consideration thereof may be noticed or adjourned to, shall either approve the substitute route or place or refer the same back to the said commissioner for alteration or amendment, and may refer the same back, with such directions or suggestions as the said court may deem advisable, and as often as necessary, and until the said commissioner shall determine such substituted route or place as may be approved by the court; an appeal from any order made by said court at special term, under the provisions of this section, may be taken by any person or corporation interested in and aggrieved thereby, to the appellate division of the judicial department in which the real estate is situated, and shall be heard as a non-enumerated motion. The commissioners of appraisal herein referred to, in determining the compensation to be made to the persons or corporations owning such real estate, or claiming interest therein, shall include in the amount of such compensation such sum as shall be sufficient to defray the expenses of making such change of route and location and of building said railroad or highway. The said commissioners of appraisal shall suggest in their report, and the court, in the order confirming such report, shall determine, subject to review by the said appellate division, what reasonable time after payment of the awards to said persons or corporations shall be sufficient within which to complete the work of making such change, and the said city of New York or the commissioner of water supply, gas and electricity thereof shall not be entitled to take possession or interfere with the use, for the aforesaid purposes, of such real estate before the expiration of such time. This time may be subsequently extended by the court (subject to review as aforesaid), upon sufficient cause shown. After the expiration of the time so determined or extended no use shall be made of said real estate which shall cause pollution to the water in said reservoir, or the construction of said reservoir, or interfere with its flow.

Commissioner[s] to prepare maps.

§ 486. Whenever in the opinion of said commissioner it is necessary to acquire any such real estate (as the term "real

estate" is herein defined), for any of the purposes hereinbefore set forth, or for the purpose of extinguishing any right, title or interest thereto or therein, the said commissioner, for and on behalf of The City of New York, shall prepare a map or maps of the real estate which in his opinion it is necessary to acquire for the purposes hereinbefore set forth, and shall submit the same to the board of public improvements estimate and apportionment, for approval. The said board may adopt, modify or reject such maps in whole or in part, and may require others to be made instead thereof. A copy of the map or maps so prepared, with a certificate of the adoption thereof, signed by the commissioner and the president of the board of public improvements, mayor, shall be filed in the office of said commissioner and be open to public inspection, and shall be the map or maps of the real estate to be acquired, subject to such changes or modifications as the said commissioner may from time to time deem necessary for the more efficient carrying out of the provisions of this act. And the said board of public improvements, estimate and apportionment, prior to the final adoption of such map or maps, shall afford to all persons interested a full opportunity to be heard respecting such map or maps and the acquisition of the real estate shown thereon, and shall give public notice of such hearing, by publishing a notice, once in each week, for three successive weeks in the City Record, and the corporation newspapers, and in two papers published in the county or counties in which the real estate to be acquired or affected is situated, and in two daily papers in The City of New York. At such hearing or hearings testimony may be produced by the parties appearing before him it in such manner as said board may determine, and the president of said board mayor is hereby authorized to administer oaths and issue subpoenas in any such proceeding pending before him. it.

Power to enter upon lands for the purpose of making maps.

§ 487. The said commissioner, his agents, engineers, surveyors, and such other persons as may be necessary to enable him to perform his duties under this act, are hereby authorized to enter upon real estate, as the term real estate is defined in this act, and any land or water on or contiguous to the line,

course, site or track of any pond, lake, stream, reservoir, dam, aqueduct, culverts, sluices, canals, bridges, tunnels, pumping works, blow-offs, shafts and other appurtenances, for the purpose of making surveys or examinations and preparing and posting the notices required by this act.

Details of maps.

§ 488. After the final adoption of said map or maps the said commissioner shall prepare six similar maps or plans of the proposed site of any dam, reservoir, aqueduct, sluice, culvert, canal, pumping works, bridges, tunnels, blow-offs, ventilating shafts, and other necessary appurtenances for the proper completion of the work so proposed by him. Upon these maps there shall be laid out and numbered the various parcels of real estate, on, over or through which the same are to be constructed and maintained, or which may be necessary for the prosecution of the work authorized by this act. On said maps the natural and artificial division lines existing on the surface of the soil at the time of the survey shall be delineated, and there shall be plainly indicated thereon, of which parcels the fee or other interest is to be acquired. The said maps may be made and filed in sections. One or more sections may be determined before the maps of the whole construction are completed. The proceedings hereinafter authorized may, in like manner be taken separately, in reference to one or more of such sections, before the maps of the whole are filed. The work upon one or more of such sections may be begun before the maps of the remaining sections are filed. The map or maps when adopted by the said commissioner and board of [public improvements] estimate and apportionment shall be by said commissioner transmitted to the corporation counsel, with a certificate of approval written thereon and signed by the said commissioner and the [president of the board of public improvements.] mayor.

Maps to be filed.

§ 489. The corporation counsel shall cause one of said maps to be filed in the office of the clerk of each county in which any real estate laid out on said maps shall be located, except that in any county in which there may be a register's office, the said map shall be filed therein, instead of with the county clerk.

The fourth, fifth and sixth maps shall be disposed of in the manner indicated in section four hundred and ninety-five of this act.

Corporation counsel to conduct proceedings.

§ 490. After the said maps shall have been filed, as provided for in the last section, the corporation counsel for and on behalf of The City of New York, shall, upon first giving the notice required in the next section of this title, apply to the supreme court, at a special term thereof to be held in the judicial district in which the real estate to be acquired or affected is situated, for the appointment of commissioners of appraisal. Upon such application he shall present to the court a petition, signed and verified by the said commissioner, according to the practice of said court, setting forth the action theretofore taken by said commissioner and board of [public improvement,] estimate and apportionment and the filing of said map and praying for the appointment of such commissioners. Such petition shall contain a general description of all the real estate to, in or over which any title, interest, right or easement is sought to be acquired for the said city for the purposes of this act, each parcel being more particularly described by a reference to the number of said parcel, as given on said map; and the title, interest or easement sought to be acquired to, in, or over such parcel, whether a fee or otherwise, shall be stated in the petition.

Notice to be given.

§ 491. The corporation counsel shall give notice in the City Record, and corporation newspapers, and in two public newspapers published in The City of New York, and in two public newspapers published in each county in which any real estate laid out on said maps may be located, of his intention to make application to the said court for the appointment of such commissioners of appraisal, which notice shall specify the time and place of such application, shall briefly state the object of the application, and shall describe the real estate sought to be taken or affected. A statement of the boundaries of the real estate to be acquired or affected, with separate enumerations of the numbers of the parcels to be taken, in fee, and of the numbers of the parcels in which any interest or easement is to be

acquired, with a reference to the date and place of filing the said map shall be sufficient description of the real estate sought to be so taken or affected. Such notice shall be so published, once in each week, in each of the said newspapers, for six weeks immediately previous to the presentation of such petition; and the corporation counsel shall, in addition to the said advertisements, cause copies of the same, in hand-bills, to be posted in at least twenty conspicuous places in the vicinity of the real estate so to be taken or affected, at least six weeks prior to said application.

Motions for appointment of commissioners of appraisal.

§ 492. At the time and place mentioned in said notice, unless the said court shall adjourn said application to a subsequent day, and in that event, at the time to which the same may be adjourned, the court, upon due proof to its satisfaction of the publication and posting aforesaid, and upon filing the said petition, shall make an order for the appointment of three disinterested and competent freeholders, one of whom shall reside in the county of New York, one of whom shall reside in the county in which the real estate acquired or affected is situated, and one of whom shall reside in the county in which the said real estate shall be situated, or in an adjoining county, as commissioners of appraisal to ascertain and appraise the compensation to be made to the owners and all persons interested in the real estate laid down on said maps, as proposed to be taken or affected for the purposes indicated in this act. Such order shall fix the time and place for the first meeting of the commissioners.

Commissioners to take and file oath.

§ 493. The said commissioners shall take and subscribe the oath required by the twelfth article of the constitution, and shall forthwith file the same in the office of the clerk of the county in which the real estate to be acquired or affected is situated, and shall file certified copies of said oath in the office of the register and county clerk of the county of New York.

City to become seized of real estate.

§ 494. On filing the oath of the commissioners of appraisal, in the manner provided by the last section, the said city of New York shall be and become seized in fee of all

those parcels of real estate which are shown on the said map hereinbefore referred to, of which it has been determined by the said commissioner, that the fee shall be acquired, and shall be entitled to take and hold such interest in the parcels of land in which it has been determined that the fee shall not be acquired, as has been shown on said map and described in said petition, and may immediately, upon the filing of such oaths and such certified copies, or at any time or times thereafter, take possession of the lands shown on said map, or any part or parts thereof, without any suit or proceeding at law for that purpose.

Proceedings of commissioners.

§ 495. Any one of said commissioners of appraisal may issue subpoenas and administer oaths to witnesses; and they, or any one of them, in the absence of the others, may adjourn the proceedings from time to time, in their discretion, but they shall continue to meet, from time to time, as may be necessary to hear, consider and determine upon all claims which may be presented to them under this act. In case of death, resignation, refusal, neglect or inability to serve, of any commissioner or commissioners of appraisal, the corporation counsel shall, upon due notice to be given by advertisement in the newspapers designated in this act ten days prior to such application, apply to the supreme court, at a special term thereof, to be held in the judicial district in which the real estate is situated, for the appointment of one or more commissioners to fill the vacancy or vacancies so occasioned. Whenever the commissioners meet, except by appointment of the court, or pursuant to adjournment, they shall cause reasonable notice to be given to the attorneys for such parties who have appeared. It shall be the duty of the commissioners of appraisal to procure from the corporation counsel the fourth, fifth and sixth copies of the maps provided for in this act. They shall view the real estate laid down on said maps, and shall hear the proofs and allegations of any owner, lessee or other person in any way entitled to, or interested in said estate, or any part or parcel thereof, and also such proofs and allegations as may be offered on behalf of The City of New York. They, or a majority of them, shall also determine the height to which the waters of any lake, pond or natural stream concerning which such pro-

ceedings were instituted may be raised and the point to which such waters may be drawn down by The City of New York, such determination to be made before any award of damages shall be made on account of such proposed raising or depressing of such waters, and they shall also determine what sum shall be paid to the general or special guardian or committee of an infant, idiot, or person of unsound mind, and to the attorney appointed by the court to attend to the interests of any unknown owner or party in interest, or to the attorney or guardian of any party in interest whose interests are unknown or the interest of any person or persons not in being. They shall reduce the testimony, if any, taken before them, to writing, and after the testimony is closed, they, or a majority of them, all having considered the same, and having an opportunity to be present, shall, without unnecessary delay, ascertain and determine the just compensation which ought justly to be made by The City of New York to the owners, or the persons interested in the real estate sought to be acquired or affected by said proceedings. The said commissioners of appraisal shall make reports of their proceedings to the supreme court, as in the next section provided, 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 herein provided.

Commissioners to prepare report.

§ 496. The said commissioners shall prepare a report, and a true copy or copies thereof, as may be required, to which shall be respectively annexed the fourth and fifth copies, and, if required, the sixth copy of the maps referred to in this act. The said report shall contain a brief description of the several parcels of real estate so taken or affected, with a reference to the map as showing the location and boundaries of each parcel; a statement of the sum estimated and determined upon by them as a just compensation to be made by the city to the owners of or persons entitled to or interested in each parcel so taken or affected, and a statement of the respective owners of or persons entitled thereto or interested therein; but in all and each and every case and cases, where the owners and parties interested, or their respective estates or interests are unknown, or not fully known, to the commissioners of ap-

praisal, it shall be sufficient for them to set forth and state, in general terms, the respective sums to be allowed and paid to the owners of and parties interested therein generally, without specifying the names or estates or interests of such owners or parties interested, or any or either of them. They shall also recommend such sums as shall seem to them proper to be allowed to the parties or attorneys appearing before them, as costs, counsel fees, expenses and disbursements, including reasonable compensation for witnesses.

Report to be filed.

§ 497. Said report signed by the commissioners, or a majority of them, shall be filed in the office of the clerk of the county in which the real estate is situated. The commissioners of appraisal shall notify the corporation counsel as soon as the said report is filed.

Notice of motion to confirm report.

§ 498. The corporation counsel, or in case of his neglect to do so within ten days after receiving notice of such filing, then any person interested in the proceedings, shall give notice that the said report will be presented for confirmation to the supreme court, at a special term thereof, to be held in the judicial district in which the real estate is situated, at a time and place to be specified in said notice. The said notice shall contain a statement of the time and place of the filing of the report, and shall be published in each of the newspapers referred to in section four hundred and ninety-one of this act, once in each week, for at least four weeks immediately prior to the presentation of said report for confirmation.

Confirmation of report.

§ 499. The application for the confirmation of the report shall be made to the supreme court, at a special term thereof, held in the judicial district in which the real estate is situated. Upon the hearing of the application for the confirmation thereof, the said court shall confirm such report, and make an order, containing a recital of the substance of the proceedings in the matter of the appraisal, with a general description of the real estate appraised, and for which compensation is to be made; and shall also direct to whom the money is to be paid, or in what trust company it shall be deposited by the comptroller of

The City of New York. Such report, when so confirmed, shall (except in the case of an appeal, as provided in section five hundred and five of this act) be final and conclusive as well upon the said city of New York as upon the owners and all persons interested in or entitled to said real estate; and also upon all other persons whomsoever.

Payment of awards.

§ 500. The said city of New York shall, within four calendar months after the making and entry of the order confirming the report of the commissioners of appraisal, pay to the respective owners and bodies, politic or corporate, mentioned or referred to in said report, in whose favor any sum or sums of money shall be estimated and reported by said commissioners, the respective sum or sums so estimated and reported in their favor respectively, with lawful interest thereon, from the date of filing the oath of said commissioners and certified copies thereof, as by this act required. And in case of neglect or default in the payment of the same within the time aforesaid, the respective person or persons, or bodies, politic or corporate, in whose favor the same shall be so reported, his, her or their executors, administrators, legal representatives or successors, at any time or times, after application first made by him, her or them, to the comptroller of The City of New York for payment thereof, may sue for and recover the same, with lawful interest, as aforesaid, and the costs of suit in any proper form of action against the said city of New York 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 act, for real estate taken or affected for the purposes herein mentioned, and the report and order confirming report of 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, and entitle plaintiff to judgment therein.

Sum awarded to be deposited in certain cases.

§ 501. Whenever the owner or owners, person or persons interested in any real estate taken or affected in such proceedings, or in whose favor any such sum or sums or compensation shall be so reported, shall be under the age of twenty-one years, of unsound mind, or absent from the state of New York, and

also in all cases where the name or names of the owner or owners, person or persons interested in any such real estate shall not be set forth or mentioned in the said report, or where the said owner or owners, person or persons, being named therein cannot, upon diligent inquiry, be found or where there are adverse or conflicting claims to the money awarded as compensation, it shall be lawful for the said city of New York to pay the sum or sums mentioned in the said report, payable, or that would be coming to such owner or owners, person or persons, respectively, with interest aforesaid, into such trust company as the court may, in the order of confirmation, direct to the credit of such owner or owners, person or persons, and such payment shall be as valid and effectual, in all respects, as if made to the said owner or owners, person or persons interested therein respectively themselves, according to their just rights; and provided, also, that in all and each and every such case and cases where any such sum or sums, or compensation, reported by the 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 suits, 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.

Who may present claim before commissioner.

§ 502. Every owner or person in any way interested in any real estate taken, affected or entered upon and used and occupied for the purposes contemplated by this act, and any owner or person interested in real estate contiguous thereto, and which is affected by the acquisition, use or occupation of the real estate shown on said map, whether such contiguous real estate is shown on the maps or not, if he or they intend to make claim for compensation for such taking, entering upon, using or occupying, shall, within one year after the appointment of the commissioners of appraisal, exhibit to the said commissioners a statement of claim, and shall thereupon be entitled to offer testimony and to be heard before them touching such

claim, and the compensation proper to be made, and to have a determination made by such commissioners of appraisal as to the amount of such compensation. Every person, corporation, or body politic, neglecting or refusing to present such claim within said time shall be deemed to have surrendered his, her or its title or interest in such real estate or his, her or its claim for damages thereto, except so far as they may be entitled, as such owner or person interested, to the whole or a part of the sum of money awarded by the commissioners of appraisal as a just compensation for taking, using and occupying, or as damages for affecting the real estate owned by said person, corporation, or body politic.

City protected by payment.

§ 503. Payment of the compensation awarded by said commissioners of appraisal to the person or persons, corporation, or body politic named in their report (if not infants or persons of unsound mind) shall, in the absence of notice to The City of New York of other claimants to such award, protect the said city of New York.

Separate reports may be made.

§ 504. Said commissioners of appraisal 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, annexing to said report a copy of so much of the maps as displays the parcel or parcels so reported on. Such report shall, as to the claims therein specified, be the report required in this act, and the subsequent action with reference thereto shall be had in the same manner as though no other claim was embraced in said proceeding, which, however, shall continue as to all claims upon which no such determination and report is made.

Proceedings in case of an appeal.

§ 505. Within twenty days after the making, entry and service of the order confirming the report of the commissioners of appraisal, as provided for in this act, of which notice may, as to the parties who have not appeared before the commissioners, be given in the manner provided in this act, either party may appeal by notice, in writing, to the appellate

division of the supreme court of the judicial department in which the real estate described in said petition and shown on said map is situated. Such appeal shall be heard, on due notice thereof being given, according to the rules and practice of the said court, and pending such appeal the comptroller of The City of New York shall deposit in such trust company as the court shall direct, the amount of the award, with interest to the date of such deposit, and the funds so deposited shall remain with the trust company, subject to the further order of the court. On the hearing of such appeal the court may direct a new appraisal and determination by the same or new commissioners, in its discretion, and either party, if aggrieved, may take a further appeal, which shall be heard and determined by the court of appeals. In the case of a new appraisal the second report shall be final and conclusive on all parties and persons interested. If the amount of compensation to be made by the said city is increased by the second report, the difference shall be paid by the comptroller of The City of New York to the parties entitled to the same, or shall be deposited, as the court may direct; and if the amount is diminished, the difference shall be refunded to the said city of New York by the trust company. But the taking of an appeal by any person or persons shall not operate to stay the proceedings under this act, providing such award and interest have been deposited. Such appeal shall be heard upon the evidence taken and proceedings had before such commissioners.

How defects may be remedied.

§ 506. The supreme court of the judicial district in which the real estate is situated shall have power at any time to amend any defect or informality in any of the special proceedings authorized by this act as may be necessary, or to cause other property to be included therein, 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, or be removed. And the said court may, at any time, remove any of said commissioners of appraisal who, in their judgment, shall be incapable of serving, or who shall, for any reason in their judgment be an unfit person to serve as such commissioner. The cause of such

removal shall be specified in the order making the same. If, in any particular, it shall, at any time, be found necessary to amend any pleading, or proceeding, or to supply any defect therein, arising in the course of any special proceeding authorized by this act, 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.

Agreements with owners of real estate.

§ 507. The said commissioner of water supply, gas and electricity, subject to the approval of the board of [public improvements,] estimate and apportionment, may agree with the owners or persons interested in any real estate laid down on said maps as to the amount of compensation to be paid to such owners or persons interested for the taking or using and occupying such real estate. 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 the 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 highways in any town, who shall act for such town, and with the trustees of any school district, who shall act for such district, and with the president and a majority of the board of trustees of any incorporated village. 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 act, on such terms as may be agreed on between them and the said commissioners; and if any real estate of any county, town, or school district is required by said city for the purposes of this act, 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, or the president and majority of trustees of any incorporated village, may grant or surrender such real estate for such compensation as may be

agreed upon between such officers respectively and the said commissioners.

Compensation and expenses of commissioners.

§ 508. The commissioners of appraisal, appointed in pursuance of this act, shall receive as compensation for their services the sum of ten dollars per day for each day upon which the said commissioners shall be actually and necessarily employed in the performance of the duties imposed upon them by this act. They may employ the necessary clerks and stenographers. The corporation counsel shall, either in person or by such counsel as he shall designate for the purpose, appear for and protect the interests of the city in all such proceedings in court and before the commissioners. The fees of the commissioners, and the salaries and compensation of their employees, and their necessary traveling expenses, and all other necessary expenses in and about the special proceedings provided by this act, to be had for acquiring title or extinguishing claims for damages to real estate, and such allowance for counsel fees, expenses and witness fees as may be recommended by the commissioners and ordered paid by order of the court, shall be paid by the comptroller of The City of New York, out of the funds hereinafter provided, when they have been taxed before a justice of the supreme court in the judicial district in which the real estate is situated, upon five days' notice to the corporation counsel.

Issue of bonds.

§ 509. The comptroller of The City of New York is hereby authorized and directed to raise, from time to time, on bonds of said city, in addition to the amounts which he is now authorized to raise for such purposes, such sums of money as shall be sufficient to pay for any real estate, or for the extinguishment of any right, title, or interest therein acquired, and all damages appraised to persons interested therein, together with all expenses necessarily incurred in acquiring title to such real estate, or in extinguishing claims for damages thereto, and for all other expenditures herein authorized.

Description of bonds.

§ 510. The bonds to be issued by the comptroller of The City of New York in pursuance of this title shall be called

“Corporate stock of The City of New York,” and shall be issued in the manner hereinbefore provided for the issue of corporate stock, subject, however, to the limitations of the state constitution. And the **[municipal assembly]** board of aldermen of said city is hereby authorized and directed to raise, from time to time, by tax upon the estates, real and personal, subject to taxation in The City of New York, the sum or sums of money which may be required to pay the interest on said bonds and to redeem them at maturity.

Jurisdiction of state board of health.

§ 511. Any lake or reservoir constructed or maintained under the provisions of this act shall be subject to such sanitary regulations as the state board of health shall prescribe.

Highways and bridges.

§ 512. The City of New York is hereby required to build and construct such highways and bridges as may be made necessary by the construction of any reservoir **[in the counties of Westchester, Putnam, Queens or Suffolk under this act,]** and to repair and forever maintain such additional bridges as may be made necessary by the construction of such reservoir or reservoirs.

Account of expenditure to be filed in comptroller's office.

§ 513. The said commissioner of water supply, gas and electricity shall, in every calendar month, file in the office of the comptroller of The City of New York an account of all expenditures made by him, or under his authority, and of all liabilities incurred by him, during the preceding month, and an abstract of each such account shall be published in the City Record.

Limit within which Lake Mahopac may not be drawn down.

§ 514. Nothing herein contained shall authorize or empower or permit any water in excess of the ordinary flow thereof to be drawn from Lake Mahopac, in the town of Carmel, Putnam county, between the first days of March and September in any year.

Present proceedings to be continued.

§ 515. All proceedings pending at the time this act takes effect for the acquisition of title to or the extinguishment of rights in real estate for any of the purposes in this title specified shall be continued and prosecuted to a conclusion according to the respective provisions of law under which said proceedings may have been begun, and as to all such proceedings this act shall not be deemed applicable.

Id.; corporation[s] authorized to use ground under streets, etc.

§ 516. All persons acting under the authority of The City of New York 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 said street, highways or roads to be restored to its original state, and all damages done thereto shall be repaired.

Devolution of powers of former boards.

§ 517. For all the purposes of this act all of the rights, powers, privileges, duties and obligations, heretofore created by law or otherwise, of the city of Brooklyn, or of any of its departments or officers respecting the water-works of said city are, so far as they are consistent with the provisions of this act, hereby vested in The City of New York, as constituted by this act, and as matter of administration devolved upon the commissioner of water supply, gas and electricity of The City of New York to be by him exercised in accordance with the provisions, directions and limitations of this act, and all of the rights, powers, privileges, duties and obligations of Long Island City, or of any or either of its departments or officers, or of any town, village or district in any of the territory hereby annexed to the corporation heretofore known as the mayor, aldermen and commonalty of the city of New York, and by this act consolidated into one city, in respect to any of the public water-works or the public water system, or the public water supply thereof; the sale and distribution of the same, are hereby vested in The City of New York, and for the purpose of administration are hereby devolved upon the said commissioner [of water supply of The City of New York,] to be by him executed pursuant to the provisions, directions and limitations of this act.

Legal effect of act upon new aqueduct.

§ 518. Nothing in this act contained shall be deemed or construed to repeal, or in any wise affect chapter four hundred and ninety of the laws of eighteen hundred and eighty-three, entitled "An act to provide new reservoirs, dams and a new aqueduct with the appurtenances thereto for the purpose of supplying the City of New York with an increased supply of pure and wholesome water," or the several acts amendatory thereof, but the said act and its amendments shall remain in full force and effect, provided that the commissioners therein specified, shall not hereafter begin the construction of any new work, except such as may be properly and necessarily appurtenant to work, the construction of which has been begun before the date upon which this act takes effect. The term of office of the commission appointed and existing under the aforesaid act shall cease and determine on the completion of the work, and thereupon all papers, documents and records in possession of the aqueduct commissioners shall be delivered to the commissioner of water supply **[.]**, gas and electricity.

Commissioner [of public buildings] to inspect electric lights; to cause tests to be made, etc.

§ 519. **[575.]** The said commissioner of water supply, gas and electricity shall cause inspection to be made of electric lights furnished to the city, and of electric meters and electric wiring, as such tests may be provided for by the proper appropriation; the said commissioner shall cause tests to be made of all meters in use in said city for measuring or ascertaining the quantity of electricity or steam furnished by any corporation or person in said city within one year after this act shall take effect; and thereafter no corporation or person shall furnish or put in use any electric or steam meter which shall not have been inspected, approved and sealed by the inspectors, and every such corporation or person shall provide and keep in or upon their premises a suitable and proper apparatus to be approved and sealed by the inspector for testing and proving accuracy of meters furnished for use by them. Whenever a meter shall be inspected the inspector shall attach thereto some seal, stamp or mark, with the inspector's name, the date of his inspection, and whether or not the meter is accurate. Meters in use shall be

reinspected and tested on the written request of the consumer, or of the company, in the presence of the consumer, if desired. If any such meter on being so tested shall be found defective or inaccurate to the prejudice or injury of the consumer, the necessary removal, inspection, correction and replacing of such meter shall be without expense to the consumer; but in all other cases, except where the change is beneficial to the company, he shall pay the reasonable expense of such inspection and the reinspection shall be stamped on the meter. Provided, however, that nothing herein contained shall be construed as requiring to be sealed, electrolytic or other electric meters, which in their construction or use are not susceptible of being sealed, nor the apparatus employed in taking the usual periodic readings therefrom; but all such meters shall, in all other respects, be tested and stamped in the manner provided herein for other meters; and every corporation using such electrolytic or other meter shall at all times admit the inspectors of meters at the meter department and reading rooms, and permit the inspection by him of all meters and of all the processes, methods and operations of measuring electric current consumed by it.

Laws repealed.

§ 520. [576.] The provisions of sections sixty-two, sixty-three and sixty-four of chapter forty of the general laws, known as the transportation corporations law, are hereby repealed in so far as they affect the inspection of [gas meters and] electric meters within The City of New York.

Interest in manufacture of gas, etc., and certain acts by officers, etc., of department prohibited.

§ 521. [577.] No officer, agent or employee of the department of [public buildings, lighting and supplies] water supply, gas and electricity shall in any way, directly or indirectly, be interested, pecuniarily, in the manufacture or sale of gas, or of electricity or steam, or of gas or electric or steam meters, or of any article or commodity used by gas or electric companies, or used for any purpose for the consumption of gas or of electricity, or steam, or in or with a gas or electric or steam company, and no such officer, agent or employee shall give certificates or written opinions to a maker or vendor of any such article or commodity.

Inspection of illuminating gas; tests.

§ 522. [578.] The illuminating gas of every company shall be inspected at least twice a year, and may be inspected as frequently as the commissioner may think best, but not oftener than once a week. The gas shall be tested for illuminating power by means of a discphotometer, or other approved apparatus, and during such test shall be burned from a burner best adapted to it, which is at the same time suitable for domestic use, and at as near the rate of five feet per hour as is practicable. When the gas of any such company shall be found on three consecutive inspections to be of an illuminating power less than twenty sperm candles of six to a pound, and burning at the rate of one hundred and twenty grains of spermaceti per hour, tested at such place as the said commissioner shall specify by a burner consuming five cubic feet of gas per hour, and shall not comply with the reasonable and proper standard of purity as fixed by said commissioner, a fine of one hundred dollars shall be paid by such company to the city.

Commissioner to submit proposed ordinances relative to wires, etc.

§ 523. [579.] The said commissioner of water supply, gas and electricity shall from time to time submit for the consideration of the board of [public improvements] aldermen such proposed ordinances in regard to electric wires, appliances and currents for furnishing light, heat or power when introduced into or placed in any building in said city. Such proposed ordinances shall prescribe the method of construction, operation, location, arrangement, insulation and use of such wires, appliances and currents, as said commissioner shall from time to time deem necessary for the protection of life and property.

Inspector of electric wiring; qualifications; all wires to be inspected; rules, notices, etc.; penalty for violation.

§ 524. [580.] Any inspector of electric wiring appointed in the department shall have a technical and practical knowledge of the construction and operation of electrical lines and appliances. After this act takes effect, the commissioner shall cause to be inspected all such wires, currents and appliances that may be introduced into or placed in any building in said city, and the said commissioner shall furnish a certificate of

such inspection to any person or corporation applying therefor. All notices of the violation of any of the provisions of this section, or of any ordinances relating to said department, or any regulations, rules or orders made thereunder relating to electrical wires, currents or appliances, shall be issued and served in the manner provided in this act for the service of notices. The violation of any of the provisions of this section or of any of the said ordinances or any rules or regulations thereunder shall be deemed to be a violation of the [provisions of the department of buildings] building code of said city, and shall subject the person or corporation committing the same to the penalties prescribed herein for such violations.

Removal of electric wires.

§ 525. [581.] Whenever in the opinion of the board of [public improvements] estimate and apportionment it shall be practicable to remove the electrical conductors above ground in any street, avenue, highway or public place of that part of The City of New York which lies within the boroughs of Manhattan and The Bronx, after the grade of said street, avenue or highway shall have been finally determined and established, and to place the same underground, the commissioner of [public buildings, lighting and supplies] water supply, gas and electricity shall notify the owners or operators of the electrical conductors above ground that such electrical conductors must be removed within a certain time to be fixed by said commissioner, which time shall be sufficient for such removal, and in the case of a corporation duly authorized to lay and operate electrical conductors underground in such street, avenue, highway or public place, sufficient also for the proper laying of conductors underground in place of those removed. All electrical conductors authorized to be placed underground, shall be placed underground under and in accordance with the provisions of chapter seven hundred and sixteen of the laws of eighteen hundred and eighty-seven, chapter two hundred and thirty-one of the laws of eighteen hundred and ninety-one, chapter two hundred and sixty-three of the laws of eighteen hundred and ninety-two, and the laws amendatory thereof and supplemental thereto. Whenever application shall be made to said commissioner of [public buildings, lighting and supplies] water

supply, gas and electricity for permission to place underground electrical conductors in any street, avenue, highway or public place of that part of The City of New York which lies within the boroughs of Manhattan and The Bronx, the subways therefor shall, if such permission be granted, be constructed or provided, and such electrical conductors placed underground under and in accordance with the provisions of said laws. But such permission shall be granted only in accordance with the provisions of said laws.

Underground electrical conductors.

§ 526. [582.] Whenever the said board of [public improvements] estimate and apportionment shall deem it desirable and practicable, after hearing all parties interested, that the electrical conductors in any street, avenue, highway or public place of The City of New York, lying within the boroughs of Brooklyn, Queens and Richmond, be placed underground, the said commissioner of water supply, gas and electricity shall notify the owners or operators of the electrical conductors above ground in any such street, avenue, highway or public place, that said electrical conductors shall be placed underground within a certain time to be fixed by the said commissioner, which said time shall be sufficient for the proper construction of underground conduits or other channels in said street, avenue, highway or public place. Whenever any duly authorized company operating or intending to operate electrical conductors in any street, avenue, highway or public place in that part of The City of New York which lies within the boroughs of Brooklyn, Queens and Richmond, shall desire to place its conductors or any of them underground, it shall be obligatory upon such company to file with the said commissioner [of public buildings, lighting and supplies] a map or maps made to a scale, showing the streets or avenues or other highways or public places, which are desired to be used for such purpose, and giving the general location, dimensions and course of the underground conduit desired to be constructed. Before any such conduit shall be constructed it shall be necessary to obtain the approval by said commissioner of said plan of construction so proposed by such company, and said commissioner shall have power to require that the work of removal and of constructing every

such system of underground conductors shall be done according to such plan so approved.

Id.; procedure when board of [public improvements] estimate and apportionment determines upon.

§ 527. [583.] Whenever the commissioner of [public buildings, lighting and supplies] water supply, gas and electricity in accordance with the resolution of the board of [public improvements] estimate and apportionment shall notify the owners or operators of any electrical conductors in The City of New York, that said conductors shall be removed or placed underground within a certain time, the time within which said electrical conductors shall be placed underground shall be fixed by the said commissioner, giving all persons or corporations owning or operating such electrical conductors, an opportunity to be heard on the question of the time necessary to place said conductors underground, and after hearing the engineer of lighting and electricity, and such other expert opinion as the said commissioner may think advisable. Said owners or operators of electrical conductors above ground in such street or locality shall be required to remove all of said poles, wires or other electrical conductors and supporting fixtures or other devices from any such street or locality within thirty days after the expiration of the time so fixed by said commissioner.

Id.; permit necessary to take up pavement, etc.; commissioner of [public buildings, etc.], water supply, etc., to determine method of extension; [municipal assembly] board of aldermen may enact ordinances regulating use, etc.

§ 528. [584.] It shall be unlawful, after the passage of this act, for any person or corporation to take up the pavement of any of the streets and parks of said city, or to excavate for the purpose of laying underground any electrical conductors, or to construct subways, unless permission in writing therefor shall have been first obtained from the said commissioner of [public buildings, lighting and supplies] water supply, gas and electricity with the written approval of [endorsed by the commissioner of highways] the president of the borough within which it is desired to lay such conduits or to construct

such subways. And except with a like permission therefor no electrical conductors, poles, wires or other electrical devices or fixtures shall be constructed, erected, strung, laid or maintained above or below the surface of any street, avenue, highway or other public place, in any part of said city. And the said commissioner [of public buildings, lighting and supplies] shall determine whether any extension of the existing electrical conductors of any person or corporation in said city shall be by means of overhead or underground conductors. And the [municipal assembly] board of aldermen may establish, and may from time to time enact ordinances regulating all the construction, maintenance, use and management of the electrical conductors, poles and fixtures above ground, the conduits and subways therefor constructed underground, and for regulating the number and location of overhead lines.

The four preceding sections to be police regulations.

§ 529. [585.] The provisions of the four preceding sections of this act are made police regulations in and for The City of New York, and in case the several owners of said poles, wires or other electrical conductors, fixtures and devices shall not cause them to be removed from such streets or localities as required by said commissioner of water supply, gas and electricity or by the determination of the board of [public improvements] estimate and apportionment, or shall neglect or refuse to comply with any of the ordinances as herein provided, it shall be the duty of the said commissioner to cause the same to be removed from said streets, roads, avenues, lanes, parks and public places.

Separate contracts for lighting each borough; duty of commissioner.

§ 530. [587.] The commissioner of [public buildings, lighting and supplies] water supply, gas and electricity, under and in conformity to the ordinance regulating contracts shall prepare the terms and specifications under which contracts shall be made for lighting the streets, public buildings and parks of said city. Separate contracts shall be made for such lighting in each of the boroughs of The City of New York, or in such subdivisions of the

city as may appear to the board of [public improvements and the municipal assembly] estimate and apportionment to be for the best interests of the city. The number, kind and location of lights to be furnished under each of said contracts shall be determined and prescribed by the said commissioner. [of public buildings, lighting and supplies.] Such bids shall be prepared and advertised for, and such contracts shall be executed in the manner prescribed for herein as to other contracts entered into by said city or the departments thereof. Contracts shall be made for the term of not exceeding one year, and shall be awarded to the lowest bidder, unless the board of [public improvements by a vote of a majority of its members, of whom the mayor and comptroller shall be two] estimate and apportionment shall determine that it is for the public interest that a bid other than the lowest should be accepted. Contracts made for a given borough or district shall include all lights of a given kind used by said city in said borough or district then ordered or thereafter to be ordered by said commissioner during the term of said contract. But no bid shall be entertained unless the said commissioner shall be satisfied that the party or parties bidding are possessed of sufficient plant to carry out the provisions of the contract.

Maps, etc., to be turned over to commissioner.

§ 531. The commissioner of public buildings, lighting and supplies, as constituted by chapter three hundred and seventy-eight of the laws of eighteen hundred and ninety-seven, is hereby required and directed to turn over and deliver to the commissioner of water supply, gas and electricity, on the first day of January, nineteen hundred and two, all maps, plans, models, books and papers and all official records and papers of every kind in his possession relating to the construction and location of electrical conductors, conduits or subways, filed with or communicated to said commissioner.

TITLE [6.] 3.

*Department of Street Cleaning.***Commissioner, appointment, [term] and salary.**

§ 533. The head of the department of street cleaning shall be called the commissioner of street cleaning. He shall be appointed by the mayor and shall hold office as provided in chapter four of this act. His salary shall be seven thousand five hundred dollars a year. The main office of the department shall be located in the borough of Manhattan. Branch offices may be located in the boroughs of Brooklyn and The Bronx.

Id.; jurisdiction.

§ 534. The commissioner of street cleaning shall have cognizance and control:

1. Of the sweeping and cleaning of the streets of the [city,] boroughs of Manhattan, The Bronx, and Brooklyn, and of the removal, or other disposition as often as the public health and the use of the streets may require, of ashes, street sweepings, garbage, and other light refuse and rubbish, and of the removal of snow and ice from leading thoroughfares and from such other streets within said boroughs as may be found practicable.

2. Of the framing of regulations controlling the use of sidewalks and gutters by abutting owners and occupants for the disposition of sweepings, refuse, garbage or light rubbish, within such boroughs, which, when so framed, and approved by the [board of public improvements and the municipal assembly] board of aldermen shall be published in like manner as city ordinances, and shall be enforced by the police department in the same manner and to the same extent as such ordinances.

Streets; what streets and wharves not included.

§ 535. The term streets as used in this title shall not be deemed to include such macadamized streets as are within any park or are under the control or management of the department of parks, nor such wharves, piers and bulkheads or slips and parts of streets and places as are by law committed to the custody and control of the department of docks and ferries.

Street cleaning department; members of; clerical and uniformed forces.

§ 536. The members of the department of street cleaning shall be divided into two general classes, to be designated, respectively, the clerical force and the uniformed force. The clerical force shall consist of a chief clerk, medical examiners, not exceeding three in number, and such and so many clerks and messengers as the commissioner of street cleaning shall deem necessary. [but the aggregate salaries of the said clerical force shall not exceed in any year the amount appropriated therefor by the board of estimate and apportionment.] The uniformed force shall be appointed by the commissioner of street cleaning, and shall consist of one general superintendent, one assistant superintendent [one superintendent of stables], one superintendent of final disposition, one assistant superintendent of final disposition, district superintendents, not exceeding twenty-one in number; time collectors, not exceeding eight in number; section foremen, not exceeding one hundred and twenty-five in number; dump inspectors, not exceeding forty-three in number; assistant dump inspectors, not exceeding forty-three in number [tug and scow inspectors, not exceeding twenty-five in number]; sweepers, not exceeding thirty-one hundred in number; dump boardmen, not exceeding forty-three in number; drivers, not exceeding sixteen hundred in number; stable foremen, not exceeding twenty-one in number; assistant stable foremen, not exceeding twenty-one in number; hostlers, not exceeding one [hundred and forty-six in number]; head hostler to each stable and additional hostlers not exceeding one for each ten horses; a master mechanic and such and so many mechanics and helpers as may be necessary [but the aggregate salaries of such mechanics and helpers shall not exceed in any year the amount appropriated therefor by the board of estimate and apportionment and the municipal assembly]. The commissioner of street cleaning shall have power and is hereby authorized to increase the said uniformed force, from time to time, by adding to the number of sweepers, drivers and hostlers, provided the board of estimate and apportionment and the [municipal assembly] board of aldermen shall have previously made an appropriation for the purpose of permitting such increase. The annual salaries and compensations of the members of the uniformed force of the

department of street cleaning [shall be fixed by the board of estimate and apportionment and] shall not exceed the following: Of the general superintendent, three thousand dollars; of the assistant superintendent, two thousand five hundred dollars; [of the superintendent of stables, two thousand dollars;] of the master mechanic, one thousand eight hundred dollars; of the superintendent of final disposition, two thousand dollars; of the assistant superintendent of final disposition, one thousand five hundred dollars; of the district superintendents, one thousand eight hundred dollars each; of the time collectors, one thousand two hundred dollars each; of the section foremen, one thousand two hundred dollars each; of sweepers or drivers acting as assistants to the section or stable foremen, nine hundred dollars each; of the dump inspectors, one thousand two hundred dollars each; of the assistant dump inspectors, nine hundred dollars each; [of the tug and scow inspectors, one thousand two hundred dollars each;] of the dump boardmen, seven hundred and twenty dollars each; of the sweepers, seven hundred and twenty dollars each; of the drivers, seven hundred and twenty dollars each; of the stable foremen, one thousand three hundred dollars each; of the assistant stable foremen, one thousand dollars each; of the hostlers, seven hundred and twenty dollars each. Hostlers may receive extra pay for Sundays if an appropriation therefor is made by the board of estimate and apportionment. The members of the department of street cleaning shall be employed at all such times and during such hours and upon such duties as the commissioner of street cleaning shall direct for the purpose of an effective performance of the work devolving upon the said department. In case of a snowfall or other emergency, the commissioner of street cleaning or the deputy commissioner may hire and employ temporarily such and so many men, carts and horses as shall be rendered necessary by such emergency, forthwith reporting such action with the full particulars thereof to the mayor, but no man, cart or horse shall be so hired or employed for a longer period than three days, except that any person registered or eligible to appointment as a driver, or as a sweeper, may be temporarily employed at any time as an extra driver or sweeper to fill the place of a driver or sweeper who is suspended or temporarily absent from duty from any cause.

The rate of compensation for such extra drivers or sweepers shall be two dollars per day, and the driver or sweeper whose place is so filled shall not receive any compensation for the time during which he is so absent from duty or his place is so filled, unless such injury or illness was caused by service in [contracted in the service of] the department.

The services of any person employed, and of carts and horses hired pursuant to this section, shall be paid for in full and directly by the department of street cleaning, at such times as may be prescribed by such department; and they, and each of them, shall be employed and hired directly by the department of street cleaning and not through contractors or other persons, unless the commissioner himself shall determine that this requirement must for proper action in a particular instance be dispensed with. Nothing herein contained shall affect any existing contracts made with or by the department of street cleaning in regard to the cleaning of Broadway below Fourteenth street in said city or the renewal thereof, if deemed best by the commissioner of said department. Neither the commissioner of street cleaning, nor any deputy commissioner of street cleaning, nor any member of the uniformed force of the street cleaning department, shall be permitted to contribute any moneys, directly or indirectly, to any political fund or to join or be or become a member of any political club or association or any club or association intended to affect legislation for or on behalf of the street cleaning department or any member thereof or contribute any funds for such purpose.

Id.; removal of members of clerical and uniformed forces.

§ 537. No member of the clerical force of the department of street cleaning 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 removal the true grounds thereof shall be entered upon the records of the department. The commissioner of street cleaning shall have power, in his discretion, on evidence satisfactory to him that a member of the uniformed force has been guilty of any legal or criminal offense or neglect of duty, violation of rules, or neglect or disobedience of orders, or incapacity, or absence without leave, or conduct injurious to the public

peace or welfare, or immoral conduct, or any breach of discipline, to punish the offending party by forfeiting or withholding pay for a specified time, suspension without pay during such suspension for a period not exceeding thirty days, or by dismissal from the force, but no more than thirty days' pay or salary shall be forfeited or deducted for any offense. The said commissioner is also authorized and empowered, in his discretion, to deduct and withhold pay, salary or compensation from any member or members of the force for and on account of absence for any cause without leave. All fines imposed and pay deducted or withheld under the provisions of this section, shall be retained by the comptroller to the credit of the apportionment for the department of street cleaning, and shall be applicable, in the discretion of the commissioner of street cleaning, to any of the purposes of said department as if originally appropriated therefor. Absence without leave of any member of the uniformed force for five consecutive 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 said force and may be dismissed therefrom without notice. No leave of absence exceeding twenty days in any one year shall be granted or allowed to any member of the uniformed force, except upon condition that such member shall waive or release not less than one-half of all salary, pay or compensation and claim thereto or any part thereof during such absence. The said commissioner of street cleaning is hereby authorized and empowered, from time to time, to make, adopt, enforce rules, orders and regulations conformable to the provisions of this act for the government, administration, discipline and disposition of the said department and of the members thereof, and to prescribe and define the duties of each member. When and as soon as a member of the uniformed force has been fined, suspended, or dismissed the true cause for such fine, suspension or dismissal shall be entered in writing in a book to be kept for that purpose by the commissioner of street cleaning, which book shall be a public record. A copy of the rules and regulations or of any or either of them of the said commissioner adopted by him may, when certified by him or by his deputy, be given in evidence upon any trial, investigation, hearing or proceeding in any court or before any tribunal, commissioner or commissioners, board or competent body, with the same force and effect as the original.

Members of department not liable to military or jury duty.

§ 538. No person holding any office or position under the department of street cleaning shall be liable to military or jury duty.

Division of streets into districts; allotment of sweepers.

§ 539. All the paved avenues, streets, lanes, alleys and places in said city which the department of street cleaning is by this act charged with the duty of cleaning, shall be cleaned and kept cleaned by hand labor, and for that purpose each sweeper shall provide himself with such tools and implements as the commissioner of street cleaning shall prescribe, and to each sweeper shall be allotted a fixed area of street surface according to the character of the locality; of which allotment a record shall be kept in the department of street cleaning and shall be a public record, but nothing in this section contained shall be deemed to prevent the commissioner of street cleaning from causing the labor of the sweepers to be supplemented by the use of sweeping machines in such streets and avenues as to him may seem proper. It shall be the duty of the commissioner of street cleaning to divide the city into a suitable number of districts, not exceeding twenty-one, each of which shall be under the charge and supervision of a district superintendent who shall be directly responsible to the general superintendent, and also to the commissioner of street cleaning for the cleanliness of his district. Each of said districts shall be by said commissioner subdivided into sections in charge of foremen responsible to the district superintendent, as well as to the general superintendent, and to the commissioner of street cleaning for the cleanliness of his section. It shall be the duty of said commissioner of street cleaning to make such allotment and designation of the area to be covered, and the duties to be performed by the uniformed force, that each member thereof, except the general superintendent and his assistant shall have one particular district or section in which to perform all the work to which he is allotted. But nothing herein contained shall be so construed as to prevent the commissioner of street cleaning from transferring, at his discretion, members of the uniformed force, from one district or section to another, nor from temporarily employing all or any number of said uniformed force in a particular street or streets, section or sections.

Department of docks; to keep wharves, etc., clean.

§ 540. The department of docks shall have power and authority and it is hereby made its duty to cause the wharves, piers, bulkheads, heads of slips, and portions of any streets and places by law committed to the custody and control of said department of docks, to be thoroughly clean and kept clean at all times; and to remove from said wharves, piers, bulkheads, heads of slips and portions of streets, and to dispose of all sweepings, ashes and garbage. And for the purpose of disposing of the sweepings and other refuse removed by said department of docks, the said department of docks shall have the right and is hereby authorized to use concurrently with the said department of street cleaning, such dumping boards, slips and piers as may be assigned to and set apart for the use of said department of street cleaning, and all contracts made by the commissioner of street cleaning under this act for the removal of ashes and garbage and sweepings shall provide for the removal of such ashes, garbage and sweepings, as may be required to be removed by said department of docks.

Commissioner of street cleaning; power to obtain plant, supplies, etc.

§ 541. The said commissioner of street cleaning shall have power, and it shall be his duty, to purchase or hire from time to time for his use as such commissioner, at current prices, such and so many horses, carts, steam tugs, scows, boats, vessels, machines, tools and other property as may be required for the economical and effectual performance of his aforesaid duty or to contract for the construction of any such tugs, scows, boats, vessels, carts, machines, tools or other property; or for the sweeping of streets and the removal of street sweepings by machine, and also to contract for the cremation, utilization or burning of street sweepings, refuse and garbage; or for the melting or removal of snow upon or from any streets or avenues or parts thereof. The title to property so purchased or constructed shall be in The City of New York. All such hiring, or purchases, or contracts, however, exceeding one thousand dollars in amount at any one hiring or purchase, shall be let by contract to the lowest bidder therefor, founded on sealed bids or proposals 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. Provided, that

nothing herein contained shall prevent said commissioner, whenever it shall be necessary, to hire such boats, steam tugs, scows, vessels, machines, or tools [or other property] for a day or trip, and for successive days or trips, without advertising of contract founded on sealed proposals or bids, at compensation by the day or trip, notwithstanding the aggregate compensation for such successive days or trips may exceed said sum of one thousand dollars. The said commissioner is hereby authorized, whenever and as often as, in his opinion, the public interests shall require, to reject all bids or proposals received in answer to any such advertisement, and to readvertise for bids and proposals as hereinafter provided. Whenever the said commissioner shall deem it necessary, he shall and is hereby authorized to sell, at public auction, any plant, material, horses, carts, scows or other property, used in any way in connection with the work of cleaning streets; but before any such sale shall be made a notice thereof stating the time and place of sale shall be published in the City Record and corporation newspapers for at least ten days immediately preceding such sale, and the proceeds arising from such sale, after deducting the necessary expenses thereof, shall be paid into the city treasury to the credit of the general fund for the reduction of taxation. The said commissioner is hereby authorized, with the consent and approval of the board of sinking fund commissioners, to hire or lease for periods not exceeding ten years suitable and sufficient offices for the transaction of the business under his charge, and also such stables and other buildings or parts of buildings or plots of ground as may, from time to time, be necessary. All carts used by said department of street cleaning shall be of such size, form and construction as to prevent escape during transit of dust, or of any refuse carried therein.

Piers, docks, slips, etc., for use of department.

§ 542. 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 and for the borough presidents of the boroughs of Queens and Richmond suitable and sufficient slips, piers and berths in slips, located as the said commissioner or borough

presidents may require, and such as shall be convenient and necessary for his or their use in executing the duty hereby imposed upon **[him,]** them, or either of them, excepting slips, docks and piers on the East river set apart for the use of canal boats. The said commissioner or borough president may, with the approval, in writing, of the board of estimate and apportionment, lease piers, slips or wharves for the necessary purposes of the duties by this **[chapter]** act conferred, upon them or either of them 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.

Uniform, badges, etc., of uniformed force.

§ 543. The commissioner of street cleaning is hereby authorized and directed, from time to time, to prescribe distinctive uniforms, badges and insignia to be worn and displayed by the several members of the uniformed force of said department and to prescribe and enforce penalties for the failure to wear and exhibit the same by any member of said force while engaged in the work of the department.

Special contracts for disposition of sweepings, ashes, garbage, etc.

§ 544. 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, and such other light refuse or rubbish when collected; provided always that such contract 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 corporation in the city, payable to the order of the comptroller for five per centum

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 surety or 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.

Proceedings for removal of trucks, etc., from streets, regulated.

§ 545. It shall be the duty of the commissioner of street cleaning to remove, or cause to be removed, all unharnessed trucks, carts, wagons and vehicles of any description, found in any public street or place, and also all boxes, barrels, bales or merchandise and other movable property found upon any public street, or place, not including, however, any portion of marginal street, or place, or wharf, which, by the provision of any law or statute, is committed to the custody and control of the department of docks. The said commissioner of street cleaning is hereby authorized, with the consent and approval of the board of sinking fund commissioners, to lease a suitable yard or yards to which the trucks, carts, wagons and vehicles, boxes, bales, barrels and other things, removed under the authority of this section, shall be taken, and the said commissioner shall, from time to time, as often as he shall deem necessary, sell, or cause to be sold, as hereinafter provided at public auction, at such yard or yards, the said trucks, carts, wagons, vehicles, boxes, barrels, and other things so removed. Whenever the said commissioner or deputy commissioner shall have removed or caused to be removed any such trucks, carts, wagons, vehicles, boxes, barrels, bales or other things, and shall deem it necessary to sell them, and before making the sale thereof, he shall file with a justice of the municipal court of The City of New York, a written petition, verified by oath, setting forth the facts which bring the case within this section, together with a brief description of each of the trucks, carts, wagons, vehicles, boxes, barrels or other things so removed in his custody and possession as street cleaning commissioner

at the time of filing such petition, stating either the name of the owner or that his name is not known to the said petitioners, and can not be ascertained with reasonable diligence, and praying for a final order, directing the sale of the property so seized or removed, and the application of the proceeds thereof as herein prescribed; and, upon the presentation of said petition the justice must issue a precept under his hand, directed to the persons whose names appear in the said petition as owners, if stated in the petition, or if not stated, directed generally to all persons having any interest in the property so seized and removed, and briefly reciting in substance the other facts stated in the petition, and requiring the person or persons to whom the precept is directed to show cause before a justice at a time and place specified therein, not less than ten nor more than twenty days after the issuing of the precept, why the prayer of the petition should not be granted. The said precept shall be served by posting a copy thereof in at least two public and conspicuous places in said city, one of which shall be the office of the said commissioner of street cleaning, and the second of which shall be the yard to which the property shall have been removed, and a copy of which precept shall be so posted within three days after the precept shall have been issued, and a brief abstract of said precept shall be published in the City Record and corporation newspapers within five days after the issue, and not later than three days before the return day mentioned in the precept. At the time and place when the precept is returnable, the said commissioner or deputy commissioner must furnish proof of the service of said precept as herein prescribed, and any person named in the petition and precept or otherwise, having an interest in the property seized, may appear on the return day of the said precept and make himself a party to the proceeding by filing a written answer, subscribed by him or his attorney, and verified by the oath of the person subscribing it, denying absolutely, or upon information and belief, one or more material allegations in the petition, and setting forth his interest in the property seized. The subsequent proceedings before the justice shall be the same as in an action in the municipal court where an issue of fact has been joined, and if the decision of the justice is in favor of the petitioner, the justice must make a final order, the same as though no appearance or trial were had, except to recite the appearance

and trial before him. If no person appears and answers, the justice shall make a final order, directed to the commissioner of street cleaning, commanding him to sell, at public auction, all of the property seized and described in the petition, at the yard to which said property was removed, for the best price which he can obtain therefor. Before making any such sale, the said commissioner or deputy commissioner shall give public notice in the City Record and corporation papers, as by this act prescribed, not later than three days before the day of such sale, and such notice of sale shall specify the time and place of such sale, and shall contain a general description of the property to be sold, but no particular description of any article shall be contained therein. The sale shall be made at the time and place specified in said notice of sale by the commissioner or deputy commissioner, or by an auctioneer designated for such sale by said commissioner. Immediately after such sale, the commissioner of street cleaning shall pay to the comptroller the proceeds of such condemnation and sale, and shall, at the same time, transmit to the comptroller an itemized statement of the articles sold, with the price received for each article and a certificate of the costs and expenses incurred by the said commissioner in making such condemnation and sales. The comptroller shall credit and add to the appropriation for the department of street cleaning from the proceeds of such sale the amount of said costs and expenses of such condemnation and sales, as hereinbefore provided, and in addition thereto, such an amount for each incumbrance seized or taken, condemned and sold, as hereinbefore provided, not to exceed ten dollars, as may be estimated and fixed by the commissioner of street cleaning as necessary to pay the cost of seizing, removing and keeping or storing such incumbrances; and the remainder of the moneys realized from such sale shall be paid, without interest, to the lawful owners of the several articles sold. Any payment to a person apparently entitled thereto, under the provisions of this section, shall be a good defense to the city against any other person claiming to be entitled to such payment, but if the person to whom such payment is made is not in fact entitled thereto, it shall be lawful for the person or persons to whom the same ought to have been paid to recover the same, with interest and costs of suit, as so much money had and received to his, her or their use by the person

or persons to whom the same shall have been paid. The owner of any truck, cart, wagon, vehicle, box, barrel, bale or other thing removed from any public street or place under the provisions of this section, may redeem his property at any time after its removal upon payment to the commissioner of street cleaning of such sum as he may fix, not to exceed ten dollars for each article redeemed. The sum thus paid shall be immediately transmitted to the comptroller, and by him added and credited to the appropriation for the department of street cleaning, under the provisions of this act, and may be used by the commissioner for any of the purposes of said department, as if originally included in the appropriation thereof, by the board of estimate and apportionment. Nothing in this section contained shall be deemed to authorize the summary removal of materials for any public work or improvement in course of construction.

Limitation of amount of expense for street cleaning; bonds to be issued by comptroller for purchase of plant.

§ 546. In no case, except as in this section provided, shall the amount expended by the commissioner of street cleaning or the presidents of the boroughs of Queens and Richmond exceed the amount appropriated for the said department or boroughs by the board of estimate and apportionment and the [municipal assembly,] board of aldermen, but, for the more effectual carrying out of the provisions of this act, the said commissioner of street cleaning and said borough presidents may, with the approval of the [board of public improvements and of the] board of estimate and apportionment, purchase or construct stock or plant, including houses, dumping boards or places or buildings or structures necessary for any purpose pertaining to the business of [the department,] street cleaning of durable character intended to be used for a term of years, to be paid for by the issue and sale of bonds. [and the comptroller shall issue such bonds as may be necessary for such purpose. Such bonds shall be of such amount and to run for such term as may be determined by said comptroller, by and with the authority of the municipal assembly, not less than ten nor more than fifty years, and shall bear interest not exceeding four per centum per annum and shall not be sold at less than the par value thereof]. If the necessary cost of removing

snow or ice from the streets and avenues shall, in any one year, exceed the amount appropriated therefor, the board of estimate and apportionment may authorize such additional expenditure as may be required for the removal of such snow or ice to be paid out of any unexpended balance of the appropriation made for the purposes of said department; and the comptroller shall raise the amount of such additional expenditure by the issue and sale of revenue bonds, and shall place the amount so raised to the credit of the department of street cleaning, or of said borough presidents, as the same may have been apportioned by the board of estimate and apportionment to supply the amount of the deficiency occasioned by such additional expenditure.

Devolution of powers of former boards.

§ 547. All the powers and duties conferred upon the corporation heretofore known as the mayor, aldermen and commonalty of the city of New York, or upon any board or officer thereof, or upon the corporation known as the city of Brooklyn, or upon any board or officer thereof, or upon the corporation known as Long Island City, or upon any board or officer thereof, and upon any other municipal corporation, town or village, within the county of Richmond, or within so much of the territory of the county of Queens as is by this act annexed to the municipal corporation known as the mayor, aldermen and commonalty of the city of New York, and consolidated into the municipality known as The City of New York, relating in any way to the sweeping and the cleaning of the streets, avenues, highways, boulevards, squares, lanes, alleys and other public places of the city, and of the removal, or other disposition as often as the public health and the use of the streets may require, of ashes, street sweepings, garbage and other light refuse and rubbish, and of the removal of snow and ice from leading thoroughfares and from such other streets as may be found practicable; of the removal of encumbrances; of the issue of permits to builders and others to use the streets, avenues, highways, boulevards, squares and public places, but not to open them; of the framing of regulations controlling the use of sidewalks and gutters by abutting owners and occupants for the disposition of sweepings, refuse, garbage or light rubbish, are hereby vested in The City of New York, and as matters of administration devolved upon the commissioner of

street cleaning of said city, as to the boroughs of Manhattan, the Bronx and Brooklyn, and upon the presidents of Queens and Richmond as to those boroughs, to be by **him** them executed pursuant to the powers, provisions and limitations of this act.

TITLE **[9.]** 4.

Department of Bridges.

Commissioner, appointment, [term] and salary.

§ 594. The head of the department of bridges shall be called the commissioner of bridges. He shall be appointed by the mayor and hold office as provided in chapter four of this act. His salary shall be seven thousand five hundred dollars a year.

Id.; jurisdiction.

§ 595. The commissioner of bridges shall have cognizance and control:

(1) Of the management and maintenance of the New York and Brooklyn bridge.

(2) Of the operation of the railroad on the New York and Brooklyn bridge.

(3) Of the collection of fares and of tolls on the New York and Brooklyn bridge.

(4) Of the construction, repair, maintenance and management of all other bridges, that may at any time hereafter be constructed in whole or in part at the expense of The City of New York, or that may be acquired by said city, which extend across the waters of a navigable stream, or have a terminus in two or more boroughs.

(5) Of the construction, repair, **[and]** maintenance and management of all other bridges that are or may be in whole or in part a public charge, not included in public parks, or within the control of a president of a borough, within the territory of The City of New York. [except the East River bridge authorized by chapter seven hundred and eighty-nine of the laws of eighteen hundred and ninety-five.] The board of commissioners established by chapter seven hundred and eighty-nine of the laws of eighteen hundred and ninety-five

is hereby abolished, and all its powers and duties are hereby devolved upon the commissioner of bridges of The City of New York. The engineering and clerical force of said board is hereby transferred to the department of bridges of The City of New York; provided, however, that nothing herein contained shall prevent the commissioner of bridges from abolishing unnecessary offices or positions or shall in any way limit his powers of removal as determined by this act.

(6) Of the construction, repair, maintenance and management of all tunnels that hereafter may be constructed in whole or in part at the expense of The City of New York or that may be acquired by said city which extend across the waters of a navigable stream or have a terminus in two or more boroughs; provided, however, that nothing in this section contained shall in any way limit or affect the powers now possessed by the board of rapid transit railroad commissioners.

Id.; to make daily report to comptroller.

§ 596. The said commissioner shall keep accurate accounts of all moneys received or collected by his department for fares, tolls, and any other purpose, in such form as the comptroller of the city or the ordinances of the [municipal assembly] board of aldermen shall require, and he shall pay over the same daily to the chamberlain and make a daily report of the same to the comptroller.

Persons not affected by passage of this act; exceptions.

§ 597. The engineers, officers and subordinates, with the exception of the attorneys and counsel, of the New York and Brooklyn bridge in office or employment at the time of the passage of this act and heretofore appointed by the trustees of the New York and Brooklyn bridge shall not be affected by the passage of this act so far as their positions are concerned, but shall continue to hold such places and positions under the commissioner of bridges, subject to the provisions of this act.

The New York and Brooklyn bridge, a public highway.

§ 598. The New York and Brooklyn bridge is hereby declared to be a public highway for the purpose of rendering

travel between the boroughs of Manhattan and Brooklyn certain and safe at all times, subject to such tolls and prudential and police regulations as the [municipal assembly] board of aldermen shall adopt and prescribe; provided, however, that the passageway of the bridge now set apart for foot passengers shall remain free and open to all pedestrians coming or going at all times.

Concurrent jurisdiction in boroughs of New York and Brooklyn over crimes, etc., committed on the said bridge.

§ 599. Concurrent jurisdiction shall be possessed by all courts located in the borough of Manhattan, and by all courts located in the borough of Brooklyn, and by the judicial and administrative officers of The City of New York, over all crimes and offenses, committed upon said bridge and upon any other bridge that may hereafter be erected between the two boroughs. It shall be the duty of the said commissioner of bridges, and he hereby is authorized to execute the ordinances of the [municipal assembly] board of aldermen, relative to said bridges and to have in immediate charge, the control and disposition of such members of the police force of The City of New York, as may be assigned for duty in his department.

Certain acts declared to be misdemeanors; penalties for.

§ 600. Any person wilfully doing any injury to any of said bridges or any of their appurtenances, shall forfeit and pay to the said city of New York 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 court.

Devolution of power of former boards, etc.

§ 601. Upon the appointment of the commissioner of bridges, the respective offices of the trustees of the New York and Brooklyn bridge shall be and they hereby are declared abolished and all the powers and duties vested in and devolved upon said trustees of the New York and Brooklyn bridge by any law or statute shall, so far as they are consistent with and conformable to the provisions of this act, be devolved upon

the commissioner of bridges of The City of New York and upon the [municipal assembly] board of aldermen, and they shall in all respects exercise such duties and perform such powers, subject, however, to the provisions, directions and limitations of this act.

CHAPTER [XI.] XII.

DEPARTMENT OF PARKS.

Title 1. The parks of the city.

Title 2. The art commission.

TITLE I.

THE PARKS.

Administrative jurisdiction; board; president; salaries [branch offices].

§ 607. The head of the department of parks shall be called the park board. Said board shall consist of three members who shall be known as commissioners of parks of The City of New York. They shall be appointed by the mayor and shall hold their respective offices as provided in chapter four of this act. One of said commissioners shall be the president of the board, and shall be so designated by the mayor. In appointing such commissioners, the mayor shall specify the borough or boroughs in which they are respectively to have administrative jurisdiction, to wit: one in the boroughs of Manhattan and Richmond; one in the borough of The Bronx, and one in the boroughs of Brooklyn and Queens. The principal office of the department of parks shall be in the borough of Manhattan. There shall be branch offices in the boroughs of Brooklyn and The Bronx. [and a branch office may be established in the borough of Queens, or the borough of Richmond, in the discretion of the board. At any time when requested so to do by said board, the mayor may make a new specification of the borough or boroughs in which said commissioners are respectively to have administrative jurisdiction.] The salary of each of said commissioners shall be five thousand dollars a year.

Title to parks, squares and public places.

§ 608. The title to each and all of the parks, parkways, squares and public places comprised within and belonging to

the corporation heretofore known as the mayor, aldermen and commonalty of The City of New York, or the corporation heretofore known as the city of Brooklyn, or the corporation heretofore known as Long Island City, or the county of Kings, or the county of Richmond, or which are owned by the county of Queens and are comprised within that portion of said county which is included in The City of New York, as constituted by this act, or belonging to any of the subdivisions of said counties, is hereby vested in The City of New York, as hereby constituted.

Gifts of real and personal property.

§ 609. Real and personal property may be granted, devised, bequeathed or conveyed to The City of New York, as constituted by this act, for the purposes of the improvement or ornamentation of the parks, squares, or public places in said city, or for the establishment or maintenance, within the limits of any such park, square, or public place, of museums, zoological, botanical, 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 be accepted by the department; and all property so devised, granted, bequeathed, or conveyed, and the rents, issues, profits, and income and increase thereof shall be subject to the management, direction and control of the commissioner for the borough or boroughs in which the same is situated or to which it appertains, and except such surplus animals and duplicate specimens as the park board may deem it judicious to dispose of by sale or otherwise, the same shall be forever properly protected, preserved and arranged for public use and enjoyment, subject to such rules and regulations as the park board may prescribe; provided, however, that whenever the park board shall determine to discontinue the maintenance of the zoological collection in Central Park it shall be lawful for said board, with the approval of the mayor and the board of estimate and apportionment, to transfer such collection to the New York Zoological Society. The said board 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.

General powers of the board; ordinances.

§ 610. [The park board shall by a vote of a majority of its members] The board of aldermen shall by general ordinances from time to time establish all needful rules and regulations for the government and protection of the public parks and of all property placed in charge of the park board and under its control by the provisions of this chapter, and the same shall at all times be subject to all such ordinances as to the use and occupation thereof and in respect to any erections or encumbrances thereon. The park board shall have power to establish and enforce general rules and regulations for the administration of the department, and, subject to the ordinances of the board of aldermen, to establish and enforce rules and regulations for the government and protection of the public parks and of all property in charge of said board or under its control, which rules and regulations so far as practicable shall be uniform in all the boroughs. All ordinances, rules and regulations of the park board which on the first day of January, nineteen hundred and two, shall be in force in The City of New York, are hereby continued in full force and effect until modified or repealed by the establishment of new ordinances, rules or regulations as herein provided. [Said board shall have power to appoint a secretary and, within the limit of its appropriation, to appoint such subordinate officers as may be necessary for the proper conduct of the office of the department. The board shall also have power by a vote of a majority of its members to enact ordinances for the government and protection of all parks, parkways, squares and public places within the city, and the same shall at all times be subject to all such ordinances as to the use and occupation thereof and in respect to any erections or encumbrances thereon.] Any person violating any [of such] ordinances relating to the parks or other property mentioned in this section shall be guilty of a misdemeanor and shall on conviction before a city magistrate be punished by a fine not exceeding fifty dollars, or in default of payment of such fine by imprisonment not exceeding thirty days.

Landscape architect; appointment and duties.

§ 611. The board [shall also appoint without definite term] may employ when thereto authorized by the board of estimate and apportionment, a landscape architect, skilled and expert, whose assent shall be requisite to all plans and works or changes thereof respecting the conformation, development or ornamentation of any of the parks, squares, or public places of the city, to the end that the same may be uniform and symmetrical at all times. It shall be the duty of such architect, from time to time, to prepare and submit to the board, or to any commissioner, as he may deem proper, or as he may be requested by said board or by any commissioner, plans for works or changes thereof respecting the parks, parkways, squares or public places of the city. [The salary of said architect shall be fixed by the board within the proper appropriation].

General powers of commissioners as to the management of parks.

§ 612. [Subject to such general rules and regulations as shall be established by the board, each commissioner shall have charge of the management and be responsible for the care of all such parks, parkways, squares and public places as are situated in the borough or boroughs over which he has jurisdiction and of the streets and avenues immediately adjoining the same; but such jurisdiction shall not extend to nor include the buildings which are now or may hereafter be erected in such parks, squares or public places for governmental purposes, other than those of the department of parks.] It shall be the duty of each commissioner, subject to such general rules and regulations as shall be established by the board and in conformity therewith, to maintain the beauty and utility of all such parks, squares and public places as are situated within his jurisdiction, and to [institute and] execute subject to such rules and regulations all measures for the improvement thereof for ornamental purposes and for the beneficial uses of the people of the city. Subject to the general rules and regulations established by the board, each commissioner shall have power to determine the line or curb and the surface construction of all streets and avenues lying within a distance of three hundred and fifty feet from the outer boundaries of any park, square or public place in his jurisdiction, and he shall also

have power to plant trees and to construct, erect and establish seats, drinking fountains, statues and works of art, when he may deem it tasteful or appropriate so to do, on any part of the public streets and avenues within such environments, subject to the provisions of title two of this chapter, and to determine when and where new lamps or lighting appliances shall be placed and lighted. All contracts made at public letting by the department of parks shall be made by the park board.

Maintenance and management of buildings in parks.

§ 613. It shall be the duty of the commissioner for the boroughs of Manhattan and Richmond to maintain the meteorological and astronomical observatory, the Museum of Natural History, the Metropolitan Museum of Art in Central park, the Aquarium in Battery place, and such other buildings as now are or may hereafter be erected in such parks or in any other park, square or public place under his jurisdiction by authority of the [municipal assembly] board of aldermen. It shall be the duty of the commissioner for the boroughs of Brooklyn and Queens to maintain the Brooklyn Institute of Arts and Sciences, and such other buildings as now are or may hereafter be erected in any park, square or public place under his jurisdiction by authority of the [municipal assembly] board of aldermen. It shall be the duty of the commissioner for the borough of The Bronx to maintain the New York Botanical Garden and the buildings appurtenant thereto, and such other institutions or buildings as may be established or erected in any park, square or public place in his jurisdiction by authority of the [municipal assembly] board of aldermen. It shall be the duty of the several commissioners to provide the necessary instruments, furniture and equipments for the several buildings and institutions within their respective jurisdictions, and, with the authority of the [municipal assembly] board of aldermen, to develop and improve the same, and to erect additional buildings; but the maintenance of all such buildings and institutions shall be subject to the provisions of the acts incorporating said institutions, or either of them, and the acts amendatory thereof, and to the powers of said corporations thereunder, and of the boards by such acts created or provided for; and shall also be subject to and in conformity with such

contracts and agreements as have heretofore been made with such institutions respectively, and are in force and effect when this act takes effect, or as may be hereafter made by the authority of the [municipal assembly] board of aldermen, and no moneys shall be expended for such purposes unless an appropriation therefor has been made by the board of estimate and apportionment and the [municipal assembly] board of aldermen. Out of the moneys annually appropriated for the maintenance of parks, each commissioner may apply such sum as shall be fixed by the board of estimate and apportionment for the keeping, preservation and exhibition of the collections placed or contained in buildings or institutions now situated or hereafter erected in the parks, squares or public places under the jurisdiction of such commissioner.

Appointment of subordinate officers.

§ 614. The park board shall have power to appoint a secretary and such subordinate officers as may be necessary for the proper conduct of the office of the department. Each commissioner shall have power to appoint such superintendents, engineers, subordinates, clerks and assistants as may be necessary for the efficient performance of the duties of the department respecting the parks, squares and public places within his jurisdiction [and as may be authorized by the municipal assembly and provided for by the proper appropriation. He shall, subject to the approval of the board, fix the salaries of his appointees within the limits of such appropriation. Each commissioner shall] and also have power to employ all of the mechanics, agents or laborers needed or required for the work of the department in the parks, squares and public places in his jurisdiction within the limits of the proper appropriation. [and to arrange and classify the various appointees and employees in such manner and under such titles or designations as the board may prescribe] Each commissioner shall have in immediate charge the control and disposition of such members of the police force of The City of New York, as constituted by this act, as may be assigned for duty in the parks, squares or public places subject to his jurisdiction.

Permits [to] for buildings for fire apparatus.

§ 615. Each commissioner is hereby authorized in his discretion, on the application in writing of the fire commissioner, to permit a building or buildings for fire apparatus to be placed in any of the parks, squares or public places situated within the jurisdiction of such commissioner of parks, provided the said building or buildings are so located and constructed as, in the judgment of the commissioner granting such permission, will not disfigure or encumber the said park, square or public place, or interfere with the purposes of public use and recreation, but will tend to the protection of the public and their property.

General powers of commissioners under former acts.

§ 616. The [commissioner for the boroughs of Manhattan and Richmond] park board shall in addition to the powers, rights and duties expressly conferred or imposed upon [him] it by this act, possess and exercise all the powers, rights, and duties and shall be subject to all the obligations heretofore vested in, conferred upon or required of the corporation known as the mayor, aldermen and commonalty of the city of New York, or the department of parks in said city, or the commissioners of parks, or in any other board, body or officer therein or thereof, or [in] any commission, commissioner, body, board or officer in or for the county of Richmond, [so far as such powers, rights, duties and obligations concern or affect the control, care, management, government, extension, maintenance or administrative jurisdiction of the parks, squares and other public places situated or lying within the boroughs of Manhattan and Richmond or either of them at the time this act takes effect or which may thereafter be opened or established therein, so far as the same are not inconsistent with this act. The commissioner for the borough of The Bronx shall, in addition to the powers, rights and duties expressly conferred or imposed upon him by this act, possess and exercise all the aforesaid powers, rights, duties and shall be subject to all the aforesaid obligations so far as such powers, rights, duties and obligations concern or affect the care, management, control, government, extension, maintenance or administrative jurisdiction of the parks, squares and other public places situated or lying within the borough of The Bronx at the time this act takes effect, or which may there-

after be opened or established therein, so far as the same are not inconsistent with this act. The commissioner for the boroughs of Brooklyn and Queens shall in addition to the powers, rights and duties expressly conferred or imposed upon him by this act, possess and exercise all the powers, rights and duties and shall be subject to all the obligations heretofore vested in or conferred upon, or required of] or the corporation known as the city of Brooklyn, or the department of parks in and for said city, or the commissioners of parks, or any commission, commissioner, body, board or officer of said city or of the county of Kings, or [in] any commissioner, body, board or officer in or for [that portion of] the county of Queens, [which is included in The City of New York as constituted by this act,] so far as such powers, rights, duties and obligations [concern or affect] concerned or affected the control, care, management, government, extension, maintenance or administrative jurisdiction of the parks, squares and other public places situated or lying within [the boroughs of Brooklyn and Queens, or either of them at the time this act takes effect or which may be thereafter] The City of New York as constituted by this act or which have since been or may hereafter be opened or established therein, so far as the same are not inconsistent with this act. Nothing contained in this section shall be construed to limit the administrative control of the several commissioners over the parks, squares or public places situated or lying within their respective jurisdictions.

Accounts; annual estimates; expenditures.

§ 617. Each commissioner shall keep accurate and detailed accounts, in a form approved by the comptroller [commissioner of accounts] of all moneys received and expended by him, the sources from which they are received and the purposes for which they are expended. [, and shall prepare itemized monthly statements of all receipts and expenditures in duplicate, one of which statements, together with all vouchers, shall be filed with the comptroller, and one of which shall be filed in his own office.] Each commissioner shall, on or before the first day of September in each year prepare an itemized estimate of his necessary expenses for

the ensuing fiscal year and present the same to the board. The three estimates so prepared, as revised by the board, shall together constitute the annual estimate of the department of parks, and shall be submitted to the board of estimate and apportionment within the time prescribed by this act for the submission of estimates for the several departments of the city. No commissioner shall incur any expense for any purpose in excess of the amount appropriated therefor; nor shall he expend any money so appropriated for any purpose other than that for which it was appropriated. [The commissioner for the boroughs of Manhattan and Richmond shall annually include in his estimate of the amount necessary for the maintenance of the parks, the sums now authorized by law for the maintenance of the American Museum of Natural History and the Metropolitan Museum of Art, not exceeding, however, ninety-five thousand dollars per annum for each of the said museums.] It shall be the duty of the board of estimate and apportionment and of the [municipal assembly] board of aldermen to provide in the annual budget the proportionate part of the appropriation for the department of parks applicable to the administration of [the department in each borough of the city, borough by borough.] each commissioner.

Advertisements for supplies.

§ 618. The board shall from time to time as may be necessary, advertise in the City Record and corporation newspapers for not less than ten days, for the proposals for such articles and supplies as shall be necessary to be used in the parks, squares and public places of the city, and shall award contracts for the same to the lowest bidders, who shall give adequate security for the faithful performance of such contracts, excepting such perishable articles as may be excepted by the rules and regulations of the board. In case of an emergency each commissioner may purchase articles immediately required without calling for competition at an expense not exceeding one thousand dollars during any one month.

Battery place; boat landings.

§ 619. The commissioner for the boroughs of Manhattan and Richmond shall have power and control over all that por-

tion 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 commissioner to erect, construct and maintain on said part of Battery place, and over or on the lands under water before mentioned, 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 commissioners shall seem meet and proper for the public interest. Such commissioner 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 Battery.

Harlem river improvement.

§ 620. It shall be the duty of the commissioner for the boroughs of Manhattan and Richmond to continue and complete every and all plan or plans, work or construction, respecting the improvement of Harlem river, heretofore devolved upon the department of public parks of the corporation known as the mayor, aldermen and commonalty of the city of New York, by chapter five hundred and thirty-four of the laws of eighteen hundred and seventy-one, and by all acts or parts of acts amendatory thereof, so far as the same remain to be continued and completed according to the provisions of that act or its amendments.

Metropolitan Museum of Art.

§ 621. The commissioner for the boroughs of Manhattan and Richmond 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 for 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.

American Museum of Natural History.

§ 622. The commissioner for the boroughs of Manhattan and Richmond is hereby authorized and directed to continue the contract with the American Museum of Natural History for the occupation by it of the building erected, or to be erected, on that portion of the Central park formerly known as Manhattan square, and for establishing and maintaining therein its museums, library and collections, and carrying out the objects and purposes of said museum.

New York Public Library.

§ 623. Whenever, pursuant to lawful authority, the land at present occupied by the reservoir at Fifth avenue and Fortieth and Forty-second streets shall be made a public park, and the removal of said reservoir shall have been duly authorized and directed, the commissioner for the boroughs of Manhattan and Richmond is hereby authorized and directed to make and enter into a contract with the New York public library, Astor, Lenox and Tilden foundations, a corporation duly organized under the laws of this state, for the use and occupation of said land, or of any part thereof, by the said corporation and its successors, for establishing and maintaining thereon a free public library and reading room, and for carrying out the objects and purposes of said corporation in accordance with the provisions of the agreement of consolidation between the trustees of the Astor library, of the Lenox library and of the Tilden trust, and the several acts incorporating the said several corporations; and said contract may provide that such use and occupation shall continue so long as the said the New York public library, Astor, Lenox and Tilden foundations, or its successors, shall maintain such free public library and reading room upon said land.

Brooklyn Institute of Arts and Sciences.

§ 624. The commissioner for the boroughs of Brooklyn and Queens is hereby authorized and directed to continue the contract and lease with the Brooklyn Institute of Arts and Sciences, for the occupation by it of park lands and of a build-

ing or buildings erected or to be erected on that portion of Prospect park bounded by the Eastern parkway on the north, Washington avenue on the east, a line parallel to Old President street, and one hundred feet south of the southerly line of said street, on the south, and on the west by the easterly line of land reserved for Prospect Hill reservoir, and in continuation thereof, for establishing and maintaining therein its museum, library and collections. For carrying out the plans and purposes of said institute and for the maintenance of said museum building or buildings, and for the keeping, preservation and exhibition of collections placed therein, a sum not less than twenty thousand dollars shall be appropriated annually by the said city of New York, as constituted by this act.

New York Botanical Garden.

§ 625. The commissioner for the borough of The Bronx is hereby authorized and directed to carry out the existing contract made by and between the department of parks of the corporation heretofore known as the mayor, aldermen and commonalty of the city of New York and the board of managers of the corporation known as the New York Botanical Garden pursuant to the provisions of chapter two hundred and eighty-five of the laws of eighteen hundred and ninety-one, entitled "An act to provide for the establishment of a botanic garden and museum and arboretum in Bronx park in The City of New York and to incorporate the New York botanical garden for carrying on the same," as amended by chapter one hundred and three of the laws of eighteen hundred and ninety-four, which contract provides for the allotting and setting apart for the uses of said garden of two hundred and fifty acres of land or less in the northern part of Bronx park as shown upon a certain map thereof numbered five hundred and sixty-eight, and signed by Messrs. Vaux and Parsons, and filed with the former department of public parks of the corporation known as the mayor, aldermen and commonalty of the city of New York.

New York Zoological Garden.

§ 626. The commissioner for the borough of The Bronx is hereby authorized and directed to carry out the contract made by and between the department of public parks and the sinking fund commissioners of the corporation heretofore known as

the mayor, aldermen and commonalty of the city of New York, with the board of managers of the corporation known as the New York Zoological Society, pursuant to the provisions of chapter four hundred and thirty-five of the laws of eighteen hundred and ninety-five, entitled "An act to incorporate the New York Zoological Society and to provide for the establishment of a zoological garden in the city of New York," if such a contract shall have been entered into prior to the passage of this act. If no such contract shall have been entered into by the said department of parks and the said sinking fund commissioners prior to the passage of this act, then and in that case the said commissioner for the borough of The Bronx, with the consent and approval of the sinking fund commissioners of The City of New York, as constituted by this act, is hereby authorized to enter into a contract in behalf of The City of New York with said New York Zoological Society allotting and setting apart for the use of said society, a tract of land in Bronx park in said borough of The Bronx upon such terms and conditions as shall be approved by the said commissioner and said sinking fund commissioners.

Military encampments and evolutions; public fairs.

§ 627. No military encampment, parade, drill, review, or other military evolution, or exercise, shall be held or performed in any park, or in any part thereof [nor shall any military company, regiment, or other military body, enter or move in military order within any park] without permit from the commissioner within whose jurisdiction such park is situated. No military officer shall have authority to order, direct or hold any such parade, drill, review, or other evolutions or exercise, or encampment within any park, except in case of riot, insurrection, rebellion or war, without such permit. It shall not be lawful to grant, use or occupy, for the purposes of a public fair or exhibition, any portion of any park, square or public place.

TITLE 2.

Art Commission.

Art commission; how constituted.

§ 633. There shall be an art commission for The City of New York, composed as follows:

1. The mayor of The City of New York, ex officio.
2. The president of the Metropolitan Museum of Art, ex officio.
3. The president of the New York Public Library—(Astor, Lenox and Tilden foundations), ex officio.
4. The president of the Brooklyn Institute of Arts and Sciences, ex officio.

One painter, one sculptor and one architect, all residents of The City of New York; and three other residents of said city, none of whom shall be a painter, sculptor or architect or member of any other profession in the fine arts. All of the six last mentioned shall be appointed by the mayor from a list, of not less than three times the number to be appointed, proposed by the Fine Arts Federation of New York. In all matters of which such commission takes cognizance pertaining to work under the special charge of a commissioner or department, the commissioner having such special charge shall act as a member of the commission.

Members of commission; how chosen; vacancies.

§ 634. The painter, sculptor and architect, members of the commission, shall choose by lot one, two and three year terms of office; the three other appointed members of the commission shall also choose by lot one, two and three year terms of office, and the appointment of their successors, after the expiration of the first year of this commission, shall be for a term of three years. All appointments to fill vacancies shall be for the unexpired term. In case any vacancy shall occur in the commission, by reason of death, resignation, incapacity, refusal to serve, or otherwise, the vacancy shall be filled by appointment, as provided in section six hundred and thirty-three of this act. In case the Fine Arts Federation shall fail to present a list of nominees as aforesaid within three months from the time when any appointment is to be made, the mayor shall appoint without such nomination.

Officers.

§ 635. The commission shall serve without compensation as such, and shall elect a president, vice-president and secretary from its own members, whose terms of office shall be for one year and until their successors are elected and have qualified. The commission shall have power to adopt its own

rules of procedure. Five commissioners shall constitute a quorum.

Offices to be provided; expenses, how met.

§ 636. Suitable offices shall be provided for the commission by the board of estimate and apportionment. The expenses of the commission shall be paid by the city and the amount of the same shall be fixed annually by the board of estimate and apportionment and the **[municipal assembly]** board of aldermen.

All works of art to be submitted to and approved by the commission.

§ 637. Hereafter no work of art shall become the property of The City of New York, by purchase, gift or otherwise, unless such work of art or a design of the same, together with a statement of the proposed location of such work of art, shall first have been submitted to and approved by the commission; nor shall such work of art until so approved be erected or placed in or upon, or allowed to extend over or upon any street, avenue, square, common, park, municipal building, or other public place belonging to the city. The commission may, when they deem proper, also require a complete model of the proposed work of art to be submitted. The term "work of art" as used in this title shall apply to and include all paintings, mural decorations, stained glass, statues, bas reliefs or other sculptures; monuments, fountains, arches, or other structures of a permanent character intended for ornament or commemoration. No existing work of art in the possession of the city shall be removed, relocated or altered in any way without the similar approval of the commission, except as provided in section six hundred and thirty-nine of this act. When so requested by the mayor or the **[municipal assembly]** board of aldermen the commission shall act in a similar capacity, with similar powers, in respect of the designs of municipal buildings, bridges, approaches, gates, fences, lamps or other structures erected or to be erected upon land belonging to the city, and in respect to the lines, grades and plotting of public ways and grounds, and in respect of arches, bridges, structures and approaches which are the property of any corporation or private individual, and which shall extend over or upon any street, avenue, highway, park or public place belonging to the city,

and said commission shall so act and its approval shall be required for every such structure which shall hereafter be erected or contracted for at an expense exceeding one million dollars. But this section shall not be construed as intended to impair the power of the park board to refuse its consent to the erection or acceptance of public monuments or memorials or other works of art of any sort within any park, square or public place in the city.

Time for decision limited.

§ 638. If the commission shall fail to decide upon any matter submitted to it within sixty days after such submission, its decision shall be deemed unnecessary.

Removal or relocation of works of art; duty of commission.

§ 639. In case the immediate removal or relocation of any existing work of art shall be deemed necessary by the mayor, the commission shall within forty-eight hours after notice from him approve or disapprove of such removal or relocation, and in case of their failure so to act within forty-eight hours after the receipt of such notice, they shall be deemed to have approved of the same.

CHAPTER XIII.

[DEPARTMENT OF] PUBLIC CHARITIES:

Title 1. Department of Public Charities.

Title 2. Bellevue and Allied Hospitals in The City of New York.

TITLE I.

Department of Public Charities.

Commissioner of public charities; jurisdiction; salary.

§ 658. The head of the department of public charities shall be called the **[board of public charities] commissioner of public charities.** **[Said board shall consist of three commissioners, who shall be designated commissioners of public charities of The City of New York. They shall be appointed by the mayor and hold their respective offices as provided in chapter four of this act. One of said commissioners shall be the president of said board, and shall be so designated by the mayor. In appointing such commissioners the mayor shall specify the borough or boroughs in which they are respectively to have administrative jurisdiction, to wit: One in the boroughs of Manhattan and The Bronx; one in the boroughs of Brooklyn and Queens; one in the borough of Richmond.]** The terms of office of the members of the board of public charities, except the president thereof, appointed pursuant to the provisions of the Greater New York charter shall cease and determine on the first day of January, nineteen hundred and two, and the president of the said board of public charities shall thereupon become the commissioner of public charities. The salary of the commissioner [for the boroughs of Manhattan and The Bronx, and of the commissioner for the boroughs of Brooklyn and Queens] of public charities shall [in

each case] be seven thousand five hundred dollars a year. [The salary of the commissioner for the borough of Richmond shall be two thousand five hundred dollars a year.] The principal office of the department shall be in the borough of Manhattan. There [shall] may be a branch office in each of the other boroughs.

Rules and regulations; subordinate officers.

§ 659. The said commissioner shall [board shall by a vote of a majority of its members] have power to establish general rules and regulations for the administration of the department and the government of the institutions under [the] its jurisdiction [of said several commissioners,] except the institutions specified in section six hundred and sixty-one of this act, and except as provided in title two of this chapter, and such general rules and regulations shall be so far as practicable uniform in all the boroughs. [Subject to such general rules and regulations each commissioner shall have jurisdiction over the several classes of public institutions hereinafter specified which are situated or may hereafter be established within the borough or boroughs for which he is appointed.] The commissioner [for the boroughs of Manhattan and The Bronx, and the commissioner of the boroughs of Brooklyn and Queens], shall [each] have power to appoint and [at pleasure] in his discretion to remove [a deputy] not more than two deputies, to be known as first deputy, and second deputy, and shall define their duties. [Each] The first deputy [so appointed] shall during the absence or disability of the commissioner [appointing him] possess all the powers and perform all the duties of [such] the commissioner except the power of making appointments. [powers conferred by sections six hundred and sixty-one and six hundred and sixty-four of this act. Whenever such absence or disability shall continue for five days, or in the judgment of the mayor it is necessary, either of the other commissioners may be designated by him to exercise such powers]. In the absence or disability of both the commissioner and the first deputy, the second deputy shall possess all the powers and perform all the duties of the commissioner, except the power of making appointments. [The board of estimate and

apportionment and the municipal assembly may from ~~time~~ to time provide for additional deputies in the last named boroughs and also for a deputy in the borough of Richmond. Any deputy to serve in the borough of Richmond shall be appointed by the commissioner having administrative jurisdiction therein, and shall be subject to removal at his pleasure. Each of the commissioners,] The commissioner, within the limits of his appropriation, shall have power to appoint and remove subject to the requirements of the civil service laws [and at pleasure to remove] such subordinate officers and assistants as may be necessary for the efficient performance of his duties as [such] said commissioner. [The board shall have power to appoint a secretary, and, within the limit of his appropriation, to appoint such subordinate officers as may be necessary for the proper conduct of the office of the department.]

Public institutions under the jurisdiction of the [commissioners] commissioner.

§ 660. [Each] The commissioner shall have jurisdiction over, and it shall be his duty to take charge of and to establish and enforce rules and regulations [not inconsistent with the general rules and regulations established by the board, for the government of the following described classes of public institutions situated within the borough or boroughs for which he is appointed, viz. :] for all hospitals, asylums, almshouses and other institutions belonging to or hereafter acquired or established by The City of New York, which are or shall be devoted to the care of the feeble-minded, the sick, the infirm and the destitute; except [hospital wards attached to penitentiaries and to other prisons and institutions under the jurisdiction of the department of correction; and except such hospitals as are or may hereafter be established and conducted by the department of health pursuant to law; and except the House of Refuge for Juvenile Delinquents and the House of Detention for Witnesses; and except] the island known as Ward's Island and the buildings and improvements thereon, and the equipment, fixtures and furniture of the asylums for the insane on said island during the continuance of the lease thereof heretofore made by The City of New York to the State of New

York, and except the hospitals specified in title two of this chapter and such other institutions as are by law placed under the charge of some other department or board. Such buildings and grounds on Blackwell's Island as are now used for the care of the insane pursuant to the provisions of chapter two of the laws of eighteen hundred and ninety-six shall, when the insane shall have been removed therefrom, [be under the jurisdiction of the commissioner of public charities for the boroughs of Manhattan and The Bronx.] and the buildings and grounds, together with the equipments, fixtures and furniture of the buildings now leased to the state by the county of Kings for the care of the insane, [shall] when said lease expires, shall be under the jurisdiction of the commissioner of public charities [for the boroughs of Brooklyn and Queens].

Payments to private institutions.

§ 661. No payment shall be made by the city of New York to any charitable, eleemosynary or reformatory institution wholly or partly under private control, for the care, support, secular education, or maintenance of any child surrendered to such institution, or committed to, received or retained therein in accordance with sections six hundred and sixty-four, six hundred and sixty-five, six hundred and sixty-six and six hundred and sixty-seven of this act, except upon the certificate of the commissioner [having administrative jurisdiction] of public charities that such child has been received and is retained by such institution pursuant to the rules and regulations established by the state board of charities. Moneys paid by The City of New York to any such institution for the care, support, secular education or maintenance of its inmates shall not be expended for any other purpose. Whenever the commissioner shall decide, after reasonable notice to the institution and a hearing, that any such child as aforesaid who is received and retained in such institution is not a proper charge against the public, and notice of such decision in writing is given by him to such institution, thereupon all right on the part of said institution to receive compensation from the city for the further retention of the child shall cease. He shall file in the office of the department [in the borough within which the institution is situated,] a statement of the reasons for his decision and of

the facts upon which it is founded, and shall furnish a copy to the institution where the child is detained. His decision may be reviewed on certiorari by the supreme court.

Powers of [commissioners] the commissioner as to destitute and other persons.

§ 662. The commissioner of public charities [for the boroughs of Manhattan and The Bronx] shall [within said boroughs] have all the authority concerning the care, custody and disposition of insane, feeble-minded, sick, infirm and destitute persons heretofore conferred upon the board of public charities and upon the several commissioners of public charities [which the commissioners of public charities of the corporation known as the mayor, aldermen and commonalty of The City of New York had at the time of the taking effect of this act] and he shall be subject to the same obligations and discharge the same duties in respect to such persons, except in so far as the same are inconsistent with or are modified by this act and the amendments thereof. [The commissioner for the boroughs of Brooklyn and Queens shall within said boroughs have all the authority concerning the care, custody and disposition of such persons which the board of charities and correction of the city of Brooklyn and county of Kings as formerly constituted, or the superintendent or overseers of the poor of the County of Queens had at the time of the passage of this act, and shall be subject to the same obligations and discharge the same duties in respect to such persons, except in so far as the same are inconsistent with or modified by this act. The commissioner for the borough of Richmond shall within said borough have all the authority concerning the care, custody and disposition of such persons which the superintendent and overseers of the poor in the county of Richmond had at the time of the taking effect of this act, and shall be subject to the same obligations and discharge the same duties in respect to such persons, except in so far as the same are inconsistent with or are modified by this act.] The [said several commissioners] commissioner shall be the [overseers] overseer of the poor of The City of New York, as constituted by this act. [No] The commissioner shall not have power to dispense any form of outdoor relief except as expressly provided in this

chapter, but [each] the commissioner shall have power to pay for the cost of the removal or transportation of any person who may come under his charge whenever in his judgment the city will thereby be relieved from an unnecessary or improper charge. [Each] The commissioner [in his borough or boroughs] shall make provision for the temporary care of vagrant and indigent persons, and shall provide for an investigation into the circumstances of all such persons, and shall cause every person who is found upon investigation to be a vagrant, to be brought before a magistrate pursuant to law. The board of estimate and apportionment and the [municipal assembly] board of aldermen shall in each year appropriate such sum as in their judgment may be necessary to carry out the provisions of this section.

Classification and instruction of inmates.

§ 663. It shall be the duty of the commissioner of public charities to investigate the circumstances of every person admitted to an institution under his charge and of the near relatives of such person. Such investigation shall be made, when practicable, before the admission of such person, and the results of investigation shall be placed on file and preserved with the records of the department. It shall be the duty of the [each] commissioner to cause all the inmates of public institutions under his charge to be classified so far as practicable. The inmates of the almshouse or almshouses shall be classified at the time of their admission upon the basis of previous character and conduct, but such inmates may be transferred or reclassified in accordance with their conduct in the institution. Every inmate of the almshouse whose age and health will permit, shall be employed in cultivating the ground under the control of the commissioner, or in manufacturing such articles as may be required for ordinary use in the public institutions under the control of the commissioner, or for the use of any department of The City of New York, or in preparing and building sea walls upon islands or other places belonging to the city, or such mechanical or other labor as shall be found from experience to suit the capacity of the

individual. The articles raised or manufactured by such labor shall be subject to the order of, and shall be placed under the control of the commissioner, and all such articles shall be utilized so far as practicable in the public institutions under the charge of the department of charities or in some other department of the city. All the land under the jurisdiction of the commissioner, not otherwise occupied or utilized and which is capable of being cultivated, shall in the discretion of said commissioner, be used for agricultural purposes. [Destitute children shall be kept apart from criminal children, so that youthful and less hardened inmates shall not be rendered more depraved by association with and the evil example of older and more hardened inmates. Each] The commissioner within the limits of his appropriation, may establish and maintain in the public institutions under his charge such schools or classes for the instruction and training of inmates as may [be authorized by the board of estimate and apportionment and the municipal assembly] in his opinion be desirable.

Powers of [commissioners] the commissioner as to destitute and other children.

§ 664. [Each] The commissioner of public charities shall have power to commit, to indenture, place out, discharge, or transfer any child who may be in his custody, or who may have been placed by him in an institution as a public charge, whenever in his judgment it shall be for the best interests of such child so to do, and he and his successors in office shall have power to revoke and cancel any such indenture or agreement, and to make contracts for the maintenance of any such child; [in accordance with the general rules and regulations of the board] in placing out or indenturing such children the commissioner may assign one or more of his subordinates to make the necessary investigations and he may employ any duly incorporated charitable institution or society and may reimburse such institution or society for any expenses other than salaries, actually incurred in the placing out, supervision and transfer if necessary, of children who are public charges. The word institution, whenever

used in this chapter shall include any charitable corporation, one of whose objects is the care of children or the placing of children in families. An institution to which a child has been committed as herein provided, shall have the authority to place such child in a family, or bind out such child by indenture, or consent to his adoption. [; but in] In indenturing, placing out, transferring or committing any such child [such] the commissioner or any institution or society employed by him shall, when practicable, indenture or place out such child with an individual of the like religious faith as the parents of such child, or transfer or commit such child to an institution governed by persons of the same religious faith as that of the parents of such child. In respect to such minors so committed to or otherwise placed under his charge [each] the commissioner shall [within his borough or boroughs] have such additional powers as [are] were on the first day of January, eighteen hundred and ninety-eight [at the time of the taking effect of this act] vested by law in the corresponding officers of the corporation known as the mayor, aldermen and commonalty of the city of New York, of the corporation known as the city of Brooklyn, and of the counties of Kings, Richmond and Queens mentioned in section six hundred and sixty-two of this act. The commissioner shall not commit children to any institution which shall have been certified by the state board of charities to have failed to comply with the rules and regulations established by that board pursuant to section fourteen of article eight of the constitution, nor shall he commit any child to any institution not situated in The City of New York unless such institution shall have been certified by said board to be properly protected from fire and other dangers.

Notice of commitment of children.

§ 665. Whenever any child, actually or apparently, under the age of sixteen years, is brought before any court or magistrate in The City of New York, as constituted by this act, pursuant to section eight hundred and eighty-eight of the code of criminal procedure, or is found destitute of means

of support the magistrate presiding, or court before whom or which such child is brought shall thereupon fix a day not more than [three] five days distant for the hearing and final disposition of the charge against said child, and shall, at the same time, in addition to such other notices as may be required by law, give notice, in writing, of such arrest to the commissioner of public charities [of the borough in which said arrest is made,] and to the Society for the Prevention of Cruelty to Children duly authorized to carry on its work in the county in which said arrest is made, [if there shall be one incorporated in the borough,] which notice shall state the name of the child, its age, either actual or apparent, its sex, color, birthplace, residence, father's name, mother's name, parents' religion and parents' occupation, each if known; the specific charge upon which the arrest is made; the name of the officer making the arrest, and the name and address of the complaining witness, if any there be. And such court or magistrate may temporarily commit such child to the custody and care of an institution to which said court or magistrate is authorized by law to make final commitment.

Children committed as public charges; investigation.

§ 666. [It shall be the duty of the commissioner so notified to investigate forthwith the charge against such child.] The commissioner may appear either by clerk or by counsel on all hearings [and] proceedings for the commitment of children. He shall investigate the circumstances of their relatives, whose duty it is to relieve and maintain them, and shall on or before the final hearing therein, file with the court or magistrate a statement in writing of such fact or facts as in the opinion of the commissioner render it proper or improper that such child should be supported as a public charge at the expense of the city; and such written statement of fact or facts when so filed shall be preserved with and form a part of the record of the proceedings instituted by the arrest of such child. Omission or failure to file such statement shall not be ground for delaying the final decision.

Term of commitment of children; discharge.

§ 667. The term of commitment of each child committed in The City of New York, as constituted by this act, under

any of the provisions of section six hundred and sixty-four, six hundred and sixty-five, and six hundred and sixty-six of this act shall be until such child shall attain the age of sixteen years or until it shall be duly indentured or placed out as an apprentice by the institution to which it shall have been committed, or until it shall be given over in adoption by said institution to some suitable person, or until returned to its parents, relatives, or guardians, or otherwise discharged. Each institution mentioned in section six hundred and sixty-one of this act, shall file with the commissioner **[on or before July first, eighteen hundred and ninety-eight]**, at the end of every three months a list of all the children [therein] referred to in sections six hundred and sixty-one, six hundred and sixty-four, six hundred and sixty-five and six hundred and sixty-six of this act, received by or discharged from said institution during the month, which list shall contain the names and residence of the parents and guardians of the children as far as known. Every such institution shall keep a book in which it shall cause to be entered the name and address of each parent, relative or other person visiting an inmate of such institution who is in whole or in part a charge upon The City of New York, and such name and address shall be entered upon the occasion of each visit by any such person. [Every three months thereafter each such institution shall file a similar list of all such children received, discharged or otherwise disposed of in the interval.]

Saving clause as to certain existing laws.

§ 668. Nothing contained in the foregoing sections shall be construed to alter or effect any provision of chapter one hundred and seventy-two of the laws of eighteen hundred and sixty-five, or of chapter four hundred and thirty-nine of the laws of eighteen hundred and ninety-two, or of chapter three hundred and fifty-three of the laws of eighteen hundred and eighty-six.

Record of inmates of institutions.

§ 669. It shall be the duty of **[each]** the commissioner of public charities to keep and preserve a proper record of all persons who shall come under his care or custody and of the

disposition made of such persons, with full particulars as to the name, age, sex, color and nativity of each, and in case of minors the names and residence of parents and their religious faith so far as ascertained, and the religious faith, and residence of the persons or families with whom or of the persons in charge of the institution in which they are placed, together with copies of any instrument of indenture or agreement executed by such commissioner. And it shall also be the duty of the commissioner to keep and preserve such records of all persons who are inmates of private institutions, who are accepted by him as proper charges upon the city.

Temporary care in accident cases.

§ 670. Any person injured or taken sick on the streets or in any public place within said city, who may not be safely removed to his or her home, may be sent to and shall be received in any public hospital within said city, for temporary care and treatment, irrespective of his or her place of residence.

Temporary care of the insane.

§ 671. **[Each]** The commissioner shall provide and maintain as may be necessary suitable rooms or wards for the reception, medical examination and temporary care of persons alleged to be insane for the boroughs other than Manhattan and The Bronx.

Alteration and repair of buildings.

§ 672. **[Each]** The commissioner, [subject to the approval of the board,] whenever the increase of inmates in or the proper care and government of the public institutions or establishments under his jurisdiction shall in his judgment render it necessary or expedient, shall have power provided an appropriation has been made therefor to enlarge or alter the buildings occupied by such institutions or establishments or any of them [;], and [shall also have power] to make all needful repairs to buildings and property under his control [provided that an appropriation has been made therefor].

Potter's field; power to establish crematories.

§ 673. [Each] The commissioner [except the commissioner of the boroughs of Manhattan and The Bronx,] shall have charge of the Potter's [Field or] Fields, [situated in the borough or boroughs for which he is appointed,] and [each and every commissioner] shall, when the necessity therefor shall arise, have power to lay out [a] additional Potter's [Field] Fields or other public burial place for the poor and strangers, [within the borough or boroughs for which he is appointed,] and from time to time to enclose and extend the same, to make enclosures therein and to build vaults therein, and to provide all necessary labor therefor and for interments therein. Provided, however, that the Potter's Field on Hart's Island shall remain under the control of the department of correction, and the burial of deceased paupers therein shall continue under rules and regulations as provided in section six hundred and ninety-five of this act. The commissioner of public charities and the commissioner of correction are respectively empowered to cause to be cremated the bodies of deceased paupers and criminals where relatives do not object to such cremation; and the board of estimate and apportionment, with the approval of the board of aldermen, may cause to be erected and equipped proper facilities for such cremation.

Accounts; annual estimates; expenditures.

§ 674. [Each] The commissioner shall keep accurate and detailed accounts, in a form approved by the comptroller, of all moneys received and expended by him, the sources from which they are received and the purposes for which they are expended. [, and shall prepare itemized monthly statements of all receipts and expenditures in duplicate, one of which statements, together with all vouchers, shall be filed with the comptroller, and one of which shall be filed in his own office. Each] The commissioner shall, on or before the first day of September in each year, prepare an itemized estimate of his necessary expenses for the ensuing fiscal year, [and present the same to the board. The three estimates so prepared, as revised by the board, shall, together, constitute the annual estimate of

the department of public charities, and] which shall be submitted to the board of estimate and apportionment within the time prescribed by this act for the submission of estimates for the several departments of the city. [No] The commissioner shall incur [any] no expense for any purpose in excess of the amount appropriated therefor; nor shall he expend any money so appropriated for any purpose other than that for which it was appropriated.

Advertisements for supplies.

§ 675. The [board] commissioner of public charities shall, from time to time, as may be necessary, advertise in the City Record and the corporation newspapers for not less than ten days for proposals for such articles and supplies as shall be necessary to be used in and for the relief and support of the poor of the city, and which cannot be supplied by his department or by the department of correction, and shall award contracts for the same to the lowest bidders, who shall give adequate security for the faithful performance of such contracts [excepting such perishable articles as may be excepted by the rules and regulations of the board]. In case of an emergency or in the purchase of perishable articles [each] the commissioner may purchase [articles immediately required] without calling for competition at [an] a total expense not exceeding [one] three thousand dollars during any one month. The commissioner shall in the case of each such purchase, enter in a book to be kept for that purpose, a detailed statement of the facts which render purchase by contract impracticable.

Expenditures for the relief of the blind.

§ 676. The [commissioners are] commissioner is hereby authorized and empowered to insert in [their] his annual estimate of expenditures an item of expenditure for the relief of the poor adult blind not to exceed in all seventy-five thousand dollars. [Under such rules and restrictions as the board may deem necessary, each] The commissioner shall distribute the sum so appropriated each year [and assigned for use in his jurisdiction,] in uniform sums

not to exceed one hundred dollars to any one person, to such poor adult blind persons, not inmates of any of the public or private institutions in The City of New York, who shall be in need of relief and who shall be citizens of the United States, and shall have been residents of said city continuously for two years previous to the date of application for such relief.

Detail of inmates of correctional institutions to work in department.

§ 677. The commissioner [of the boroughs of Manhattan and The Bronx] may, from time to time, in his discretion, request the department of correction to detail and designate inmates of the correctional institutions of the city [on Blackwell's Island] to perform necessary work, labor and services in and upon the grounds and buildings which are under the charge of the said commissioner [on Blackwell's Island or Randall's Island], and such inmates of such correctional institutions when so employed shall at all times be under the personal oversight and direction of a keeper or keepers from such correctional institutions as the department of correction may deem necessary; but no inmate of any correctional institution shall be employed in any capacity whatever in any ward of any hospital under the jurisdiction of the department of public charities while such ward is being used for hospital purposes. [and in like manner the commissioners for the boroughs of Brooklyn and Queens, and for the borough of Richmond may request the department of correction to make a like detail or designation when the persons so detailed or designated can be properly guarded and restrained.] The provisions of this section shall not be construed to limit the power of said commissioner to make requisition upon the commissioner of correction as provided by section seven hundred and one of this act.

Care of non-residents in [Bellevue and Kings County] city hospitals.

§ 678. The commissioner of public charities [for the boroughs of Manhattan and The Bronx] is hereby authorized in his discretion to permit the reception and treatment in [Bellevue Hospital] hospitals under his jurisdiction of persons who do not reside in The City of New York, provided that every person so receiving treatment shall be required to

pay such sum for board and attendance as may be fixed by such commissioner, and provided that no such persons shall be received to the exclusion of patients who reside in said city. [and in like manner the commissioner for the boroughs of Brooklyn and Queens may permit the reception and treatment of such persons in the hospital now known as Kings County Hospital.] Such commissioner shall collect and pay over all such moneys to the chamberlain once every month, and the amount so collected shall be paid into the general fund. [Each] The commissioner shall upon making such payments to the chamberlain report the same to the comptroller of The City of New York.

Requisitions of subordinate officers.

§ 679. Each superintendent, warden or chief officer of every institution under the charge of [any] the commissioner shall make his requisition in writing on [such] the commissioner for all articles deemed necessary by the said officer to be used in the respective institutions under his charge, and shall keep an accurate account of the same.

Reports of subordinate officers.

§ 680. Each such superintendent, warden or other chief officer of every institution under the charge of [any] the commissioner shall once in each week report in writing to [such] the commissioner the number of persons who have been received or transferred, who are sick, who have died, and who are remaining in the respective institutions under his charge, the discipline which has been maintained therein, the punishments imposed, and the quantity and kind of labor performed, and such other information as the commissioner may require.

Hours of labor; discipline.

§ 682. The hours of labor required of any pauper or other person committed to or placed under the charge of [a] the commissioner of public charities shall be fixed by the commissioner. [the board and shall not exceed eight hours per day for each such person.] In case any such pauper shall neglect or refuse to perform the work allotted to him or her by the person in charge, or shall violate the rules and regulations of

the institution, it shall be the duty of the superintendent of the almshouse to report such insubordination or violation to the commissioner [having jurisdiction], who may thereupon direct the punishment of such pauper by solitary confinement and by being fed on bread and water only for such length of time as he may consider necessary. In case any pauper shall neglect to perform the work assigned to him or her, or be guilty of any such violation on three or more separate occasions, the said commissioner may cause such pauper to be brought before the proper court or magistrate, and such court or magistrate may commit such pauper to the workhouse or penitentiary as a disorderly person.

Support of poor persons by relatives.

§ 683. The grandparents, parents [father, mother] children and grandchildren of sufficient ability, of a poor person who is insane, blind, old, lame, impotent or decrepit so as to be unable by work to maintain himself, and the grandparents and parents of a destitute child, must at their own charge relieve and maintain him in a manner to be approved by the commissioner [within whose jurisdiction such person resides]. If the relative of a poor person fails to maintain and relieve him as in this section provided, the said commissioner may apply to any city magistrate for the order authorized by law in such cases. The action authorized by law for a failure to comply with the order of the court requiring the payment of a weekly sum for such support must be in the name of the commissioner of public charities [within whose jurisdiction such poor person resides].

Conduct of bastardy proceedings.

§ 684. All bastardy proceedings shall be conducted by and in the name of the commissioner [within whose jurisdiction the person charged with being the father or mother of the bastard resides], and the amount collected shall be paid to the commissioner, to be by him applied to the support of the child or of the child and its mother, and shall be accounted for by him in a manner approved by the comptroller. [commissioner of accounts.] [Each] The commissioner shall have authority to compromise bastardy and abandonment cases [arising in the borough or boroughs for which he is appointed].

Maintenance of abandoned wives and children.

§ 685. Every person in The City of New York, as constituted by this act, who actually abandons his wife or children without adequate support, or leaves them in danger of becoming a burden upon the public, or who neglects to provide for them according to his means, or who threatens to run away and leave his wife and children a burden upon the public, may be arrested upon a complaint made under oath to a city magistrate and a warrant thereon issued, and brought before such magistrate, as provided by section nine hundred of the code of criminal procedure. And if thereupon it shall appear by the confession of the defendant or by competent testimony that he is guilty of the charge, the said magistrate shall make an order specifying a reasonable sum of money to be paid weekly for the space of one year thereafter by such defendant to the commissioner of public charities [for the borough in which such proceedings is had] for the support of the wife or children. But nothing in this chapter contained shall apply to or affect an order for the payment of money for the support of a child in an institution, pursuant to the provisions of section two hundred and eighty-eight of the penal code or of section nine hundred and twenty-one of the code of criminal procedure.

Commitments in abandonment proceedings; surety.

§ 686. Any person convicted of any of the offenses hereinbefore recited shall, upon being served with such order, enter into a bond to the people of the state in such sum as such city magistrate shall direct, with good and sufficient surety to be approved by the said city magistrate, that such person will pay weekly for the space of one year such sum for the support of the wife or children or either or any of them, as has been ordered as aforesaid, to the commissioner [of the borough in which such proceeding is had] of public charities. In default of such surety being found, the city magistrate shall make up, sign and file in the office of the clerk of the county in which such conviction is had, a record of the conviction of such offender as a disorderly person, specifying generally the nature and circumstances of the offense and the names of the witnesses by whom it has been established, and shall by warrant commit such offender to the workhouse on Blackwell's Island, or to the penitentiary or jail in the borough where the conviction is had, there to remain until such surety be found or such

offender be discharged according to law, or he shall sentence such offender to imprisonment in the penitentiary, for a term not exceeding six months or until such offender gives the security as hereinbefore provided or is discharged according to law. Upon the trial or hearing of all complaints for any or either of the offenses hereinbefore referred to, the wife shall be a competent witness therein against her husband, as to all matters embraced in said complaint.

Actions on bonds in abandonment proceedings.

§ 687. Any suit, action or proceeding brought or instituted upon any bond or recognizance given in pursuance of the preceding section shall be brought and prosecuted by and in the name of the commissioner [for the borough in which such bond or recognizance was given] of public charities, and all moneys recovered in any suit, action or proceeding shall be paid to [such] the commissioner to be by him applied and expended for the support of the wife and children, or either or any of them, of the person against whom the order mentioned and provided for in section six hundred and eighty-five of this act shall have been made. If the person charged with the offenses hereinbefore recited or either of them is admitted to bail, the undertaking of his bail shall be for the future appearance of the defendant according to the terms of the undertaking, or that the bail will pay to the commissioner [of the borough in which such proceeding is had] a specified sum in the event of such failure to appear, or if such person deposits a sum of money as directed by law instead of giving an undertaking of bail for his future appearance, and if such person shall thereafter fail to appear in accordance with the terms of said undertaking or the terms upon which the money was deposited, then the said magistrate shall enter the fact of said person's non-appearance upon the minutes and the undertaking of his bail or money deposited instead of bail shall thereupon be forfeited.

Recoveries in abandonment proceedings.

§ 688. When such an undertaking is forfeited, an action may be brought in the name of the commissioner [for the borough in which such proceeding is had] of public charities to recover the amount specified in such undertaking, and the amount recovered in said action shall be applied and expended

for the support of the wife and children, or either or any of them, of the person charged with the offenses hereinbefore recited or either or any of such offenses, and when any money has been deposited instead of bail and which shall have been forfeited as hereinbefore provided, said money shall be paid to the commissioner, by the person with whom the said sum of money is deposited, upon presenting to him a certificate from the city magistrate certifying to the forfeiture thereof, which said certificate shall state the name of the person making the deposit, when it is made, the name of the defendant, and that the said sum of money was forfeited on account of the defendant's failure to appear as directed, and shall be signed by said magistrate.

Appeals in abandonment proceedings; costs.

§ 689. An appeal to the court of general sessions may be taken from the conviction before a city magistrate under this chapter within the county of New York, or to the county court in any other county [which is wholly or partly] within The City of New York [as constituted by this act], which said appeal shall be conducted under and in accordance with the provisions of the code of criminal procedure of the state of New York, except that the judge allowing the appeal must take from the defendant a written undertaking in such sum and with such sureties as he may approve, that defendant will abide the judgment of the appellate court upon the appeal, and will pay all costs which may be awarded against him, and except that all notices required by said code of criminal procedure to be served upon the district attorney upon such appeal shall be served upon the commissioner [for the borough in which the conviction from which such appeal is taken was had,] of public charities and the commissioner may appear by clerk or counsel upon the hearing of such appeal. The court must award costs to the party in whose favor the appeal is determined, as follows, besides disbursements: To the appellant upon reversal, thirty dollars; to the respondent upon affirmance, twenty-five dollars. When awarded to the appellant they must be paid by the comptroller of The City of New York, on the delivery to him of a certified copy of the order of reversal, and must be charged to the contingent account of the commissioner [for the borough in which conviction so reversed was had] of public charities. When awarded to the

respondent the payment of costs may be enforced as in a civil action, and in an action brought therefor against the sureties upon the undertaking given on the allowance of the appeal, the production of a certified copy of the order of affirmance shall be conclusive evidence.

When new security be required after conviction in abandonment proceedings.

§ 690. Upon the recovery of a bond given by the defendant upon conviction in abandonment proceedings as prescribed in section six hundred and eighty-six; or upon proof by affidavit by the commissioner [s of the borough in which the defendant was convicted,] that he has caused diligent efforts to be made to serve personally upon a surety on such a bond, a summons in an action brought thereon for a default in the terms thereof, but has been unable to effect service upon such surety; or that a surety has been adjudged a bankrupt, the city magistrate then sitting in the court in which such bond was given may issue a warrant for the arrest of the defendant, in whose behalf the bond was given, and require him to give new security or in default thereof may commit him, under the original order and conviction, in the manner prescribed in section six hundred and eighty-six; provided, however, that the total imprisonment upon such order shall not exceed six months in any year.

Support of bastard children.

§ 691. If any time after an order of filiation in bastardy proceedings shall have been made, and an undertaking given thereon, in accordance with the provisions of this act and of the code of criminal procedure such undertaking shall not be complied with, or that for any reason a recovery thereon cannot be had, the overseers of the poor of any county, city or town or the commissioner of public charities [for the borough of The City of New York,] where the bastard, for whose support the order of filiation was made, shall be at the time, may upon proof of the making of the order of filiation, the giving of the above mentioned undertaking and non-compliance therewith, or that for any reason a recovery cannot be had on such undertaking apply to the court, in such county, city, or town, having jurisdiction in bastardy proceedings, for a warrant for the arrest of the defendant against whom such order of filiation was made, which shall be executed in the

manner provide in the code of criminal procedure for the execution of a warrant. Upon the arrest and arraignment of the defendant, the said court upon proof of the making of the order of filiation, the giving of the above mentioned undertaking, the non-compliance therewith or that for any reason a recovery cannot be had on such undertaking shall make an order requiring him to give a new undertaking in the manner provided in subdivision one of section eight hundred and fifty-one of the code of criminal procedure for giving an undertaking on conviction, or upon his failure to so give a new undertaking, shall commit him in the manner provided in section eight hundred and fifty-two of said code of criminal procedure.

TITLE 2.

Bellevue and Allied Hospitals in The City of New York.

Board of trustees, jurisdiction, powers and duties.

§ 692. 1. On the first day of July, nineteen hundred and one, the jurisdiction of the department of public charities of The City of New York over Bellevue Hospital and the Fordham, Harlem and Gouverneur Hospitals and the Emergency Hospital in east Twenty-sixth street in The City of New York, shall cease, and the care, management and control of such hospitals shall be vested in a board of trustees which shall on said date succeed to all rights, duties and powers heretofore vested in said department of public charities so far as concerns said hospitals. Said board of trustees shall consist of seven residents of The City of New York, together with the president of the board of public charities until January first, nineteen hundred and two, and thereafter the commissioner of public charities, ex officio. It shall be known as the "Board of Trustees of Bellevue and Allied Hospitals." In the month of June, nineteen hundred and one, the mayor of The City of New York shall appoint one resident of The City of New York to serve as such trustee for the term of one year, one for the term of two years, one for the term of three years, one for the term of four years, one for the term of five years,

one for the term of six years and one for the term of seven years, from the first day of July, nineteen hundred and one. On or before the first day of June prior to the expiration of the term of office of any trustee, the mayor shall appoint his successor for the full term of seven years. The mayor shall fill any vacancy in the board caused by the death of a trustee, his resignation, removal from the city or otherwise, by the appointment of a trustee to hold office for the unexpired term. Every person appointed to serve as such trustee shall before entering upon the duties of his office take and subscribe the oath of office prescribed by the constitution of the state.

2. For the purpose of making the appointments aforesaid, the said mayor shall call upon the president or other executive head of each of the following organizations, to wit: The United Hebrew Charities of The City of New York, the Particular Council of New York of the Society of St. Vincent de Paul in New York, and the New York Association for Improving the Condition of the Poor, to present a list of not less than twice the number of persons to be appointed members of said board of trustees, to fill a vacancy or otherwise. Notice in writing of the dates on which appointments, including the first, to said board of trustees are proposed to be made shall be given by the mayor to each of said presidents or other executive heads at least five days prior thereto, and such list of names shall be so presented within three days after the receipt of such notice. Said presidents or other executive heads may each submit, or two or more of them may jointly present, such a list of names. Appointments to said board of trustees may in the discretion of the mayor be made from such list or lists.

3. No trustee shall be subject to removal under the provisions of section ninety-five of this act, but any trustee may be removed by the mayor upon proof either of official misconduct or neglect of duty or of conduct which tends to discredit his office or for mental or physical inability to perform his duties, but before such removal he shall receive due and timely

notice in writing of the charges and a copy thereof, and shall be entitled to a hearing on like notice before the mayor and to the assistance of counsel on said hearing. No trustee shall receive pecuniary compensation for his services or be interested directly or indirectly in the furnishing or performing of work, labor, services, materials or supplies of any kind to or for said hospitals by contract or otherwise. No trustee shall hold any office of emolument under the city, county, state or national government, except the offices of notary public, or commissioner of deeds, or offices in the national guard.

4. The commissioners of the sinking fund of The City of New York shall within thirty days after the passage of this act prepare a plan for the separation from the department of public charities of the said Bellevue hospital, and the Fordham, Harlem, Gouverneur and Emergency hospitals. Such plan shall apportion to each of said hospitals the lands, buildings, fixtures, furniture and other appurtenances and property, and the books, records, vouchers and other papers hitherto used in connection with or for the purposes of said hospitals and provide in detail for the transfer thereof to said board of trustees of Bellevue and allied hospitals on the first day of July, nineteen hundred and one. It shall further apportion to each of said hospitals, the employees and subordinates of every grade in the service of the department of public charities who shall be in service in and about the said hospitals exclusively on said date. To enable said commissioners to prepare such plan, they shall have access to all of the books and papers which are the property of The City of New York in the custody of said department of public charities, and to visit said hospitals and to require at any and all times the attendance before them of the commissioners of public charities and of any of their employees and subordinates.

5. Said board of trustees shall organize within ten days after said trustees are appointed. It shall annually choose from its members at a regular meeting to be held in the month of July, a president and a secretary for the term of one year.

It shall establish rules and regulations for the administration and government of said hospitals. It shall administer the moneys appropriated for said hospitals, subject to the general provisions of this act relative to the audit and payment of claims. Said board shall have power to appoint and at pleasure to remove such superintendents, medical officers, subordinate officers and other employees as may be necessary for the efficient management and conduct of said hospitals, subject to the civil service laws and the rules and regulations of the municipal civil service commission. The board of trustees shall keep accurate and detailed accounts, in a form approved by the comptroller, of all moneys received and expended by it, the sources from which they are received and the purposes for which they are expended. It shall during the month of January in each year transmit to the mayor a report as to the condition of the hospitals under its care and the management thereof during the year ending the preceding thirty-first day of December.

6. The medical board of Bellevue hospital, and allied hospitals, shall be composed of the attending and consulting physicians and surgeons of said hospitals on the first day of July nineteen hundred and one. They and such successors as the board of trustees may appoint shall serve without pecuniary compensation, and shall hold office so long as they shall perform their duties in a manner satisfactory to the said board of trustees. Vacancies occurring in said medical board shall be filled by the said board of trustees by appointment from the medical profession in The City of New York. The said board of trustees shall, on nomination of the said medical board, appoint medical and surgical house officers to the said hospitals, all of whom shall serve without pecuniary compensation.

7. Any person injured or taken sick in the streets or in any public square or place within The City of New York, who may not be safely removed to his or her home, may be sent to and

shall be received in the said hospitals for temporary care and treatment, irrespective of his or her place of residence. The said board of trustees shall provide and maintain suitable rooms or wards for the reception, medical examination and temporary care of persons alleged to be insane.

8. The said board of trustees may permit the reception and treatment in the said hospitals, of persons who do not reside in The City of New York, provided that every person so receiving treatment shall be required to pay such sum for board and attendance as may be fixed by said board of trustees and provided that no such persons shall be received to the exclusion of patients who reside in said city. The said board of trustees shall collect and pay over all such moneys to the chamberlain once every month, and the amount so collected shall be paid into the general fund. The said board of trustees shall, upon making such payments to the chamberlain, report the same to the comptroller of The City of New York.

9. The board of estimate and apportionment and the board of aldermen shall in each year appropriate such sum as in their judgment may be necessary for the support and maintenance of said hospitals. It shall be the duty of the board of trustees thereof to send to the board of estimate and apportionment, on or before the first day of September in each year, in the same manner and general form as the heads of departments and other boards of The City of New York are required to furnish.

CHAPTER XIV.

DEPARTMENT OF CORRECTION.

Jurisdiction; salary; regulations; subordinate officers.

§ 694. The head of the department of correction shall be called the commissioner of correction. He shall be appointed by the mayor and shall hold office, as provided in chapter four of this act. His salary shall be **[seven]** six thousand **[five hundred]** dollars a year. The commissioner shall have power to establish rules and regulations for the administration of the department and the government of the institutions under his control. He shall have full and exclusive jurisdiction over the several institutions hereinafter specified which are situated or may hereafter be established within The City of New York as constituted by this act. He shall have his principal office in the borough of Manhattan. **[and a branch office in the borough of Brooklyn. He may establish such other branch offices as he may deem necessary.]** He shall have power to appoint and at will to remove a deputy and to define his duties. The salary of such deputy shall be four thousand dollars a year, [and such additional deputies and assistant deputies as the board of estimate and apportionment and the municipal assembly may from time to time authorize, and to assign them to duty in such borough or boroughs as he deems proper, and at least one of such deputies shall be assigned to the branch office in the borough of Brooklyn.] He shall also have power within the limits of his appropriation to appoint and **[at will]** to remove, subject to the requirements of the civil service laws, such superintendents, wardens and other subordinate officers and assistants as may be necessary for the efficient performance of the duties of the department. **[Each]** The deputy so appointed shall during the absence or inability of the commissioner possess all the powers and perform all the duties of such commissioner except the power of making appoint-

ments. [within the borough or boroughs to which he is assigned.] The commissioner may delegate to the superintendent or warden in charge of any institution in the department the power to appoint and remove subordinate officers or assistants in such institutions.

Institutions under the jurisdiction of the commissioner.

§ 695. The commissioner shall have jurisdiction over and it shall be his duty to take charge of and manage all institutions for the care and custody of criminals and misdemeanants which belong to or [are] shall be hereafter acquired by The City of New York [as constituted by this act] except the house of refuge, the house of detention of witnesses, the Brooklyn disciplinary training school for boys, incorporated societies for the prevention of cruelty to children [all jails] and such places for the detention of prisoners or persons charged with crime as are [under the charge of the sheriff or the police department] by law placed under the charge of some other department, board or officer. The commissioner shall also have charge of such other institutions belonging to the city as have been or may be hereafter placed under his jurisdiction by the [municipal assembly.] board of aldermen. Whenever the state authorities shall have caused the inmates of the lunatic asylum on Hart's island to be removed elsewhere and shall have vacated the buildings now on said island occupied by said asylum, the said buildings, with the grounds thereto appertaining, shall become and be under the charge and control of the department of correction; provided, however, that the burial of deceased paupers shall be continued on said island under regulations established by the joint action of the departments of public charities and of correction, or in case of disagreement between said departments, under such regulations as may be established by the mayor of the city.

Transfer of inmates to Riker's island and Hart's island.

§ 696. The commissioner, whenever, in his judgment, it is expedient and practicable to do so, may cause to be removed to Riker's island, and in case Hart's island shall have been placed under the charge and control of the department of

correction, as in section six hundred and ninety-five of this act provided, then also to Hart's island, the inmates of the workhouse and of the penitentiary on Blackwell's island; and he may direct such removals to be made, from time to time, as accommodation for the said inmates may be provided upon Riker's island and Hart's island or elsewhere within The City of New York. And whenever in consequence of such removals or otherwise any of the buildings theretofore occupied or used for said workhouse or penitentiary shall have become vacant, such building or buildings, with the grounds thereto appertaining, shall be transferred to the department of public charities. And whenever any of the said buildings or grounds shall have been so transferred, the commissioner of correction shall have no further rights, duties or obligations in respect to such building or buildings or grounds, but it or they shall thereafter be included in and appertain to the department of public charities of The City of New York, and shall be under the jurisdiction of the commissioner of charities. [for the boroughs of Manhattan and The Bronx.]

Powers of commissioner over criminals and misdemeanants.

§ 697. The commissioner shall have all the authority concerning the care, custody and disposition of criminals and misdemeanants which the commissioner of correction of the corporation known as the mayor, aldermen and commonalty of The City of New York, or which the board of charities and correction for the city of Brooklyn and county of Kings as formerly constituted had on the thirty-first day of December, eighteen hundred and ninety-seven [at time of the taking effect of this act], and he shall discharge the same duties and be subject to the same obligations in respect to such persons as the said commissioner and board respectively, except in so far as the same are inconsistent with or are modified by this act. The commissioner shall have no authority and be subject to no obligation in respect to any destitute person not charged with or convicted of crime or misdemeanor.

Classification of criminals and misdemeanants; instruction.

§ 698. It shall be the duty of the commissioner to cause all the criminals and misdemeanants under his charge to be classified as far as practicable, so that youthful and less hardened offenders shall not be rendered more depraved by the associa-

tion with and evil example of older and more hardened offenders. The commissioner may establish and maintain such schools or classes for the instruction and training of the inmates of the institutions under his charge, as may be authorized by the board of estimate and apportionment. And to this end the commissioner [with the authority of the municipal assembly,] may set apart one of the penal institutions for the custody of such youthful and less hardened offenders, and said commissioner shall have the power, in his discretion, to transfer such offenders thereto from any other of the penal institutions of the city.

Records of inmates of institutions.

§ 699. It shall be the duty of the commissioner to keep and preserve a proper record of all persons who shall come under his care or custody, and of the disposition of each such person, with full particulars as to the name, age, sex, color, nativity and religious faith of each, together with a statement of the cause and length of detention of each such person. Such record shall be supplementary to and shall be kept separate from the records required to be kept by section seven hundred and nine of this act.

Employment of inmates; articles manufactured; cultivation of lands.

§ 700. Every inmate of an institution under the charge of the commissioner, whose age and health will permit, shall be employed in quarrying or cutting stone, or in cultivating land under the control of the commissioner, or in manufacturing such articles as may be required for ordinary use in the institutions under the control of the commissioner, or for the use of any department of The City of New York, or in preparing and building sea walls upon islands or other places belonging to The City of New York upon which public institutions now are or may hereafter be erected, or in public works carried on by any department of the city, or at such mechanical or other labor as shall be found from experience to be suited to the capacity of the individual. The articles raised or manufactured by such labor shall be subject to the order of and shall be placed under the control of the commissioner, and shall be utilized in the institutions under his charge or in some other department of the city. All the lands under the jurisdiction

of the commissioner not otherwise occupied or utilized, and which are capable of cultivation shall in the discretion of the commissioner be used for agricultural purposes.

Detail of inmates to work in other departments [of public charities].

§ 701. At the request of any of the heads of the administrative departments [commissioner of public charities] of The City of New York (who are hereby empowered to make such request) the commissioner of correction may detail and designate any inmate or inmates of any of the institutions in the department of correction to perform [necessary] work, labor and services in and upon the grounds and building or in and upon any public work or improvement under the charge of such other department. [commissioner of public charities as provided in chapter thirteen of this act, and subject to the restrictions therein contained.] And such inmates when so employed shall at all times be under the personal oversight and direction of a keeper or keepers from the department of correction, but no inmate of any correctional institution shall be employed in any ward of any hospital, except hospitals in penal institutions, while such ward is being used for hospital purposes. The provisions of this act or of law requiring advertisement for bids or proposals, or the awarding of contracts, for work to be done or supplies to be furnished for any of said departments shall not be applicable to public work which may be done or to the supplies which may be furnished under the provisions of the prison law.

Hours of labor; discipline.

§ 702. The hours of labor required of any inmate of any institution under the charge of the commissioner [shall not exceed eight hours per day for each such person and] shall be fixed by the commissioner. In case any person confined in any institution in the department shall neglect or refuse to perform the work allotted to him by the officer in charge of such institution, or shall wilfully violate the rules and regulations established by the commissioner or resist and disobey any lawful command, or in case any such person shall offer

violence to any such officer or to any other prisoner, or shall do or attempt to do any injury to such institution or the appurtenances thereof or any property therein, or shall attempt to escape, or shall combine with any one or more persons for any of the aforesaid purposes, the officer or officers of such institution shall use all suitable means to defend themselves, to enforce discipline, to secure the persons of the offenders and to prevent any such attempt or escape, and it shall be the duty of the officer in charge of such institution in which such person or persons is or are confined to punish him or them by solitary confinement, and by being fed on bread and water only, for such length of time as may be considered necessary; but no other form of punishment shall be imposed, and no officer of any such institution shall inflict any blows whatever upon any prisoner except in self-defense or to suppress a revolt or insurrection. In every case the officer imposing such punishment shall forthwith report the same to the commissioner and notify the physician of the institution. It shall be the duty of such physician to visit the person so confined and to examine daily into the state of his health until he shall be released from solitary confinement and return to labor, and to report to the commissioner and to the officer in charge of such institution whenever in his judgment the health of the prisoner shall require that he should be released.

Accounts; annual estimate; expenditures.

§ 703. The commissioner shall keep accurate and detailed accounts in a form approved by the comptroller, of all moneys received and expended by him, the sources from which they are received and the purposes for which they are expended. [and shall prepare itemized monthly statements of all receipts and expenditures in duplicate, one of which statements, together with all vouchers, shall be filed with the comptroller, and one of which shall be filed in his own office.] The commissioner shall, on or before the first day of September in each year, prepare an itemized estimate of the necessary expenses of the department for the ensuing fiscal year, which estimate shall constitute the annual estimate of the department of correction, and shall be submitted to the board of estimate and apportionment within the time prescribed by this act for the submission of estimates from the several departments of the

city. He shall incur no expense for any purpose in excess of the amount appropriated therefor, nor shall he expend any money so appropriated for any purpose other than that for which it was appropriated.

Advertisements for supplies.

§ 704. The commissioner shall from time to time, as may be necessary, advertise in the City Record and the corporation newspapers, for not less than ten days for proposals for all such articles and supplies (excepting perishable articles) as shall be necessary to be used in and for the institutions in the department, except such as the department itself can produce by the labor of the inmates of institutions, and shall award contracts for the same to the lowest responsible bidders who shall give adequate security for the faithful performance of such contracts. In case of an emergency the commissioner may purchase articles immediately required without calling for competition, but the amount expended by the commissioner for articles so required or for perishable articles shall not exceed the sum of two thousand dollars during any one month.

Requisitions and reports of subordinate officers.

§ 705. Each superintendent, warden, or other chief officer of any institution under the charge of the commissioner shall make his requisitions in writing upon the commissioner for all articles deemed necessary by the said officer to be used in the institution or institutions under his charge, and shall keep an accurate account of the same. It shall also be the duty of each such superintendent, warden or other chief officer to report once in each week to the commissioner the number of persons who have been received, discharged or transferred, who have become sick or who have died, and the number remaining in the respective institutions under their charge, the discipline which has been maintained, and the quantity and kind of labor performed, and such other information as the commissioner requires.

Collection of fines.

§ 706. The department of correction is hereby authorized to demand and receive fines imposed for intoxication and

disorderly conduct in The City of New York as constituted by this act in the manner and for the purposes now prescribed by law.

[Commitment of disorderly persons and vagrants.] Commitment of persons convicted of public intoxication, disorderly conduct or vagrancy.

§ 707. Whenever any person is convicted in The City of New York as constituted by this act, of public intoxication, disorderly conduct or vagrancy, the court or magistrate, before which or whom such conviction is had, shall, if it or he do not suspend sentence as hereinafter provided, impose upon the person so convicted one or other of the penalties herein provided. Upon a charge of vagrancy [the person so convicted shall be committed to the workhouse in said city, or to a county jail to be detained until discharged pursuant to sections seven hundred and ten and seven hundred and eleven of this act, and for a term not exceeding six months from the date of such commitment, and the warrant of commitment shall so recite. All persons convicted of any of the offenses last mentioned in any of the boroughs of The City of New York, shall be committed to the workhouse on Blackwell's island, or to a county jail, except as hereinafter provided, but may be thereafter transferred by the commissioner to any branch workhouse in the control of the department] if the person so convicted be a prostitute between the ages of sixteen and twenty-one, the court or magistrate may commit such person, for not exceeding one year, in the boroughs of Manhattan and The Bronx, to the Roman Catholic House of the Good Shepherd, the Protestant Episcopal House of Mercy or the New York Magdalen Benevolent Society; in the borough of Brooklyn to the Wayside Home, House of the Good Shepherd or the Bethesda Home, and in the other boroughs to one of the above named institutions or to any other similar institution for women incorporated to carry on reformatory or rescue work in The City of New York. All other persons convicted upon a charge of vagrancy, including persons convicted as prostitutes and not committed to a

reformatory as hereinafter provided shall be committed, in the boroughs of Manhattan and The Bronx, to the workhouse on Blackwell's Island, in the Borough of Brooklyn to the penitentiary of said borough, and in the other boroughs of said city to a county jail, for the term of six months. Upon a charge of public intoxication or disorderly conduct, the court or magistrate may impose a penalty as follows:

1. Commit the person so convicted [to the said workhouse or jail to be detained until discharged pursuant to sections seven hundred and ten and seven hundred and eleven of this act, and for a term not exceeding six months from the date of such commitment, and the warrant of commitment shall so recite] in the boroughs of Manhattan and The Bronx, to the workhouse, in the borough of Brooklyn to the penitentiary of said borough, and in the other boroughs of the said city, to a county jail or to said workhouse or to said penitentiary, to be detained for the term of six months.

2. Impose a fine not exceeding ten dollars. Upon the payment of the fine imposed, the person so convicted shall be forthwith discharged from custody. If, in the judgment of the court or magistrate, the person so convicted may be relied upon to pay the fine imposed within a reasonable time, the person so convicted may be conditionally released, and shall be furnished by the clerk of the court with a written certificate that he is released upon condition that the fine imposed be paid into court within a time to be named in the certificate. If the fine be not paid within such time, the court or magistrate sitting in the magistrate's court in which such conviction was had, shall issue a warrant for the arrest of such person, and shall commit him pursuant to the provisions of this section, as to commitment in case of the non-payment of a fine imposed, in the same manner as if he had not theretofore been conditionally released. If the fine imposed be [two dollars or less and be] not paid forthwith, the person so fined shall, if he be not conditionally released as hereinabove provided, be committed [to a city prison or county jail] in the boroughs of Manhattan and The Bronx

to a city prison or county jail, and in the other boroughs of said city to the county jail of the county in which he shall have been convicted, for not exceeding [two] ten days, each day of imprisonment to be taken as a liquidation of one dollar of the fine. [If the fine imposed exceed the sum of two dollars and be not paid forthwith the court magistrate shall commit the person so fined to a city prison or county jail and the warrant of commitment shall contain a direction that if the fine be not paid before five o'clock in the afternoon of the day succeeding such commitment, the person so committed shall be transferred to and detained in the workhouse until discharged pursuant to the provisions of this chapter, and for a term not exceeding six months from the date of such commitment].

3. Require any person convicted of disorderly conduct to give sufficient surety or sureties for his good behavior for [any time not exceeding] a period of time, to be recited in the commitment, of not more than six months. In default of giving such surety forthwith, the court or magistrate shall commit such person [to the city prison or county jail, to be thereafter transferred to and detained in, the workhouse], in the boroughs of Manhattan and the Bronx to the city prison, to be thereafter transferred to and detained in the workhouse, in the borough of Brooklyn to the penitentiary, and in the other boroughs of said city to the county jail of the county in which he shall have been convicted or to said workhouse or to said penitentiary to be there detained, unless sooner discharged pursuant to section seven hundred and eleven of this act, until such surety is furnished, or until [discharged pursuant to sections seven hundred and ten and seven hundred and eleven of this act, not exceeding, however, a term of six months from the date of such commitment. But no such person shall be discharged by the commissioner prior to the expiration of the time for which he was required to give surety, except by order of the magistrate who signed the last warrant of commitment, granted as provided in this chapter] the expiration of the period of time fixed by said commitment as aforesaid.

4. Nothing in this section contained shall be so construed as to prevent any court or magistrate from committing any person so convicted to any state institution to which, and for any term longer than six months, such magistrate may now be authorized to commit by law.

5. Any court or magistrate may suspend sentence in the case of any person convicted as in this section provided and release such person upon probation upon such terms and conditions, and for such period of time, not exceeding six months, as the court or magistrate may deem best. A person released on probation in accordance with the provisions of this section shall be placed under the charge and supervision of a probation officer, to be appointed as provided in this section, and shall be furnished by the clerk of the court with a written statement of the terms and conditions of his release. If at any time during the probationary term of a person convicted and released under the provisions of this section it shall appear to the court before which, or the magistrate sitting in the magistrate's court in which the person so convicted was convicted, by report of the probation officer under whose care such person was placed, or otherwise, that such person has violated any of the terms or conditions of his release, the said court or magistrate may issue a warrant for the arrest of such person, and if it shall appear that such violation has occurred, it or he may commit him in accordance with the provisions of this section in the same manner as if such person had not theretofore been released upon probation.

6. The court of special sessions of each division of The City of New York, and the board of city magistrates of each division of The City of New York, shall have authority to appoint such number of discreet persons of good character, either men or women, to serve as probation officers, as said courts or boards may deem necessary, to serve during the pleasure of the court or board of magistrates appointing them and without compensation. The board of city magistrates of each division of The City of New York shall assign the probation officers

appointed by it to the various city magistrate's courts in its division, and each probation officer shall act only as an officer of the city magistrate's court to which he is so assigned. The court of special sessions of the second division of The City of New York shall assign the probation officers appointed by it to each of the three boroughs in that division, and each probation officer so assigned shall act only as an officer of the court of special sessions of the second division, in the borough to which he is so assigned.

7. It shall be the duty of the probation officers appointed under the provisions of this section to supervise the conduct of each person placed under their charge respectively, and to report any violation by any such person of the terms and conditions of his release; to make such investigation as may be required by the court or magistrate in the case of any person accused or convicted of public intoxication, disorderly conduct or vagrancy, and to furnish such information as may be necessary to assist the court or magistrate in making a proper disposition of each case; and to render such assistance and advice to the persons placed under their charge as each case may require. If two or more probation officers are attached to any court of special sessions or city magistrate's court, the court or magistrate shall designate the officer under whose charge each person on probation shall be placed.

[Superintendent of the workhouse: reports.] Reports by superintendent of the workhouse, warden and sheriffs.

§ 708. [It shall be the duty of the superintendent of the workhouse.] Where a commitment has been made to the workhouse, penitentiary, or county jail, under any of the provisions of section seven hundred and seven of this act, except subdivision two thereof, it shall be the duty of the superintendent, warden, sheriff, or other person having charge of such institution, to ascertain from the records [thereof] of the institution under his charge, and from examination and inspection of the person committed as aforesaid whether such person has since [April fourth, eighteen hundred and ninety-

five] January first, nineteen hundred and two, and within two years next preceding the date of his commitment, been previously committed to such institution upon conviction of public intoxication, disorderly conduct or vagrancy. Within twenty-four hours after the commitment of any such person to the workhouse, penitentiary or county jail, the said superintendent, warden, or sheriff, as the case may be, shall make an examination and take the measurements of any such person according to the system known as the Bertillon system, and shall transmit to the commissioner a written [statement,] certificate showing the name, aliases, sex, age, residence, occupation, height, weight and the color of the hair of any such person, and describing [any] the measurements, scars, marks, [or] deformities, or other signs whereby such person may subsequently be identified, the date of the commitment, the offense for which such person was committed, and the name of the court or magistrate by which or whom [the] such commitment was made. Such [statement] certificate shall also show whether such person has been previously committed to such institution within the period, and for any one of the causes above specified, and, if so, the number of times that such person has been so committed during that period, the date of the last previous commitment of such person for either of said offenses, the name of the court or magistrate by which or by whom and the offense for which such last previous commitment was made, and the period of detention under such last previous commitment.

Record of persons committed.

§ 709. It shall be the duty of the commissioner to keep a book or books, card index or other register in which shall be properly recorded the names of all persons [committed under section seven hundred and seven of this act], whose commitments have been certified to him as required by section seven hundred and eight of this act, and all other facts which shall be certified to him [by the superintendent of the workhouse] as herein required by the superintendent, warden or sheriff having charge of the institution to which such persons shall have been committed. Such book or books, index or register,

are hereby declared to be public records and shall be open to public inspection, and shall be indexed and kept so as to show whether any person [committed as prescribed by this chapter] whose commitments have been so certified to him have been previously committed after January first, nineteen hundred and two, and within two years next preceding such commitment for any of the causes herein specified.

[Term of detention to be fixed by commissioner.] Time of discharge: how to be ascertained.

§ 710. Within three days after the commitment of any person upon a conviction of vagrancy or under subdivision one of section seven hundred and seven of this act [as herein provided] it shall be the duty of the commissioner to ascertain from the aforesaid records whether such person has been committed to the workhouse, penitentiary or county jail after [April fourth, eighteen hundred and ninety-five], January first, nineteen hundred and two, and within two years next preceding the date of such commitment, for public intoxication, disorderly conduct or vagrancy, and to make a written order specifying the date at which such person shall be discharged, as follows, namely: In the case of a person who has not previously been committed for any one of the offenses herein specified within two years next preceding the date of his last commitment and after [April fourth, eighteen hundred and ninety-five] January first, nineteen hundred and two, the said order shall direct that such person shall be discharged at the expiration of five days from the date of his commitment; in the case of a person who has been committed once before within the period of two years next preceding the [day] date of his commitment and after [April fourth, eighteen hundred and ninety-five] January first, nineteen hundred and two, for any of the offenses herein specified, the said order shall direct that such person shall be discharged at the expiration of twenty days from the date of his commitment; and in case of a person who has been committed more than once during the two years next preceding the date of his commitment, and after [April fourth, eighteen hundred and ninety-five] January first, nineteen hundred and two, for any of the offenses

herein specified, the said order shall direct that such person be discharged at the expiration of a period equal to twice the term of his detention under the last previous commitment, but not, in any event, exceeding [six months] the period fixed by the warrant of commitment, provided, however: First, that in case of a person committed upon conviction of vagrancy [the said order may direct that the said person shall be discharged at the expiration of a period to be fixed by the commissioner and stated therein, not exceeding six months and not less than the period of detention above specified for first and subsequent commitments as the case may be] no order for the discharge of such person before the period fixed by the warrant of commitment shall be made without the written consent, endorsed upon such order, of the court or magistrate by which or whom such vagrant was committed. Second, that whenever the period of detention of any such person under his last previous commitment shall have exceeded the period of detention provided for by this section, [() either by reason of his detention on failure to furnish security for his good behavior or by reason of [the action of the commissioner] the detention of such person upon a conviction of vagrancy, ()] beyond the period of detention so provided for, or by the ceasing, as hereinafter provided, of the right of such person to be discharged before the expiration of the full period fixed by the original warrant of commitment, then such excess of detention under his last previous commitment shall not be considered by the commissioner in determining the date of his discharge under the existing commitment. Third, in specifying the date at which such person shall be discharged, the commissioner shall not consider the records of any other institution than that to which such person has been committed by the existing commitment. The said order shall also contain with respect to the person thereby discharged the dates of any of his previous commitments after January first, nineteen hundred and two, and within two years next preceding the date of the existing commitment and also the actual periods of detention under any such previous commitments and the said order shall forthwith be transmitted to the superintendent,

warden or sheriff having charge of the institution to which such person has been committed, who shall discharge such person accordingly. It shall be the duty of the said superintendent, warden or sheriff, as the case may be, whenever the date of discharge named in such order is more than five days from the date of the warrant of commitment, to serve, within twenty-four hours thereafter, a copy of said order and section seven hundred and ten of this act upon the person named therein, and such person may, within twenty-four hours after such service, notify the superintendent, warden or sheriff, in writing, that he claims the date of discharge named in the said order to be erroneous, for the reason that he has not in fact been previously committed upon one or more of the dates specified in said order as those of his previous commitments under section seven hundred and seven of this act. Upon receipt of such notification, the superintendent, warden or sheriff shall cause such person to be again brought before the court or magistrate by which or whom he was last committed. If such court be not then in session, or if such magistrate be not then sitting, then such person shall be brought before any magistrate sitting in the borough in which such person was last committed. No such person shall be so brought before the court or magistrate, except upon twenty-four hours' notice and after an opportunity has been given him to retain counsel and subpoena such witnesses as he desires. It shall be the duty of the court or magistrate before which or whom such person is brought, thereupon to hear and determine the question whether such person has in fact been previously committed at the dates and detained for the periods named in said order, and to make an order modifying said order so as to provide for a date of discharge under the last commitment, in accordance with the facts and according to the provisions established by this section for the guidance of the commissioner. If upon the hearing, the said court or magistrate shall determine that the facts recited in the said order are true, he shall make a written finding to that effect, and thereupon

any right of the prisoner to be discharged before the expiration of the full period fixed by the original warrant of commitment shall cease, and the said prisoner shall be detained until the expiration of said period. The date of any order made pursuant to this section and the name of the person whose period of detention is fixed thereby, and the period of detention therein specified shall be entered in the records required to be kept by section seven hundred and nine of this act, and the said order shall forthwith be transmitted to the superintendent of the workhouse. Upon the expiration of the term of detention of any such person [specified therein] and upon the discharge of the person named therein, it shall be the duty of such superintendent, warden or sheriff, as the case may be, forthwith to return such order, with a written certificate endorsed thereon, specifying the date of the discharge of the person named therein, to the commissioner, who shall preserve the same as a public record.

Discharge of persons committed.

§ 711. In any case where a person has been committed under subdivision three of section seven hundred and seven of this act, and in any case coming under section seven hundred and ten of this act, where the [period of detention fixed by the commissioner shall exceed twenty days and shall be less than one hundred and sixty days] date of discharge named in the commissioner's order shall be more than twenty days and less than one hundred and sixty days after the date of the last warrant of commitment, the magistrate who signed the last warrant of commitment, may, after the expiration of twenty days, direct the discharge of any person so committed, but no such order [or mandate] shall be granted by any magistrate in any case where the order of the commissioner has been reviewed by a court or magistrate as provided by section seven hundred and ten of this act and the facts recited therein have been found to be true, nor shall such order be granted by any magistrate except upon the written certificate of the commissioner specifying the [period of detention fixed] date of discharge named by him for the

person so committed, and upon an affidavit setting forth facts which, in the opinion of said magistrate, shall justify such discharge. The said affidavit and certificate shall be filed and preserved with the complaint upon which such person was last convicted. Upon any subsequent commitment upon a conviction of vagrancy or under subdivision one of section seven hundred and seven of this act of a person so discharged, the commissioner shall [fix the period of detention] direct the discharge of such person [at] after the expiration of the term for which he would have been detained under the existing commitment if no such order [or mandate] had been granted.

Transfer of inmates by commissioner. [of correction of inmates from one institution to another.]

§ 712. The commissioner may transfer and commit and cause to be transferred and committed from the workhouse to the city prison, [penitentiary] or to either of the penitentiaries or to any other of the institutions in the department, any person committed to the workhouse under section seven hundred and seven of this act, whenever such transfer shall be necessary for the proper care and management of such city prison, [penitentiary] penitentiaries or other institution or for the proper employment of such person. The commissioner may also transfer and commit and cause to be transferred from the workhouse to the city prison or said penitentiaries [penitentiary] any person committed to the workhouse under section seven hundred and seven of this act, whenever, by reason of the number of offenders actually detained in such workhouse at any time, there shall not be accommodation therein for all the persons committed thereto; and in like manner the commissioner may in his discretion transfer prisoners from one penitentiary to another penitentiary within the department or from one district prison to another district prison within the department. The commissioner may also transfer and commit or cause to be transferred and committed from the city prison or either of said penitentiaries to the workhouse to be detained and employed therein any person who shall have been duly committed [to the city prison] thereto.

Alteration and repair of buildings.

§ 713. Whenever the increase of inmates in or the proper care and government of the institutions in the department shall in the judgment of the commissioner render it necessary or expedient, he shall have power to enlarge or alter the building or buildings occupied by such institutions; and he shall also have power to make all needful repairs to such buildings and the appurtenances thereof, provided that an appropriation has been made therefor. The commissioner shall when practicable cause the work of such alterations or repairs to be done by persons confined in such institutions.

Additional gifts to be given to inmates on discharge.

§ 714. In addition to the donations, provided by the general laws of the state, to be given to inmates of penal institutions upon their discharge, the commissioner of correction[s] shall donate to each inmate serving a term longer than three years the sum of five dollars upon his discharge.

CHAPTER XV.

FIRE DEPARTMENT.

Title 1. Organization, duties and powers of officers and men.

Title 2. Fires and their extinction.

Title 3. Prevention of fires; explosives and combustible materials.

Title 4. Fire marshals, and investigations of origin of fires.

Title 5. Relief fund and pensions.

Title 6. Tax upon foreign insurance companies.

TITLE I.

Organizations, Duties and Powers of its Officers and Men.

Fire commissioner; salary. [warrant clerk.]

§ 720. The head of the fire department shall be called the fire commissioner. He shall be appointed by the mayor, and hold his office as provided in chapter four of this act. The salary of the fire commissioner shall be seven thousand five hundred dollars a year. [He may designate in writing, to be filed in the offices of the mayor and comptroller, a clerk or chief of a bureau, to sign warrants and perform such other duties incidental thereto, as may be required during the absence, by illness or otherwise, of the said commissioner, and for a period of time to be designated in said notice.] The fire commissioner shall have power to appoint and at pleasure remove two deputy commissioners, to be known as first deputy and second deputy. The first deputy shall during the absence or disability of the commissioner possess all the powers and perform all the duties of the commissioner, except the power of making appointments. In the absence or disability of both the commissioner and the first deputy commissioner, the second deputy shall possess and perform all the duties of the commissioner, except the power of making appointments. The commissioner shall define the duties of the deputies and may delegate to either of them any of his

powers except the power of making appointments. The salary of each of such deputies shall be four thousand dollars a year.

Consolidation of departments; volunteer departments.

§ 722. The officers and members of the uniformed force and legally appointed firemen in the corporation formerly known as the mayor, aldermen and commonalty of the city of New York, and in the city of Brooklyn and in the city of Long Island City are hereby made members of the fire department of The City of New York, as hereby constituted, and shall be assigned to duty therein by the fire commissioner, with the rank and grade now held by them respectively, as nearly as may be practicable. The paid fire department system shall, as soon as practicable, be extended over the boroughs of Queens and Richmond, by the fire commissioner, and thereupon the present volunteer fire departments now maintained therein shall be disbanded. Any real property and likewise any apparatus, equipment or other personal property owned or used by said volunteer forces which may be deemed useful or necessary for the use of the fire department, shall, upon extension of the paid system to the boroughs of Queens and Richmond, respectively, be purchased by the fire commissioner at the reasonable value thereof. In the meantime, and until the said paid fire department shall be extended over said territory as herein provided, said volunteer fire companies shall continue to discharge the duties for which they have been associated or incorporated, and said companies shall receive from the city such sums as are now awarded to them by the villages or towns in which they are respectively located, except that in the boroughs of Richmond and Queens, there shall be paid on the first day of June in each year to the treasurers of the several volunteer fire companies, by the comptroller of The City of New York, the following sums: to the treasurer of an engine company or chemical engine company, twelve hundred dollars, to the treasurer of a hook and ladder company ten hundred dollars, to the treasurer of a hose company eight hundred dollars, and to the treasurer of a patrol company eight hundred dollars. Whenever hereafter the paid fire department shall be extended into any part of the territory of The City of New York, as hereby constituted, in which now or hereafter there shall exist a volunteer fire

department, such members of said volunteer fire department in said locality as may be in active service shall, so far as practicable, be preferred for appointment as firemen in the paid department and the volunteer benevolent associations existing within said territory shall possess all the privileges, and be entitled to all the rights now conferred by law on such associations. The board of estimate and apportionment may, in its discretion, appropriate such sum of money as they may deem necessary for the purchase of apparatus for use of the several volunteer companies in the borough of Queens, and for the maintenance of fire alarm systems in such borough. The certificate of incorporation of any new volunteer fire company in The City of New York shall, in addition to the requirements therefor provided in the general laws of the state, also require the approval of the fire commissioner.

Treasurer.

§ 723. The fire commissioner shall be the treasurer of the fire department, and shall file in the office of the comptroller a bond in the sum of one hundred thousand dollars for the faithful performance of his duties as such treasurer.

Powers.

§ 724. The fire commissioner 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 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, the commissioner shall surrender the same to the city.

Horses, apparatus, etc., to be provided.

§ 725. The fire commissioner 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.

To control and manage property, etc.

§ 726. The fire commissioner 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.

Bureaus.

§ 727. The fire commissioner shall have power to organize the fire department into such bureaus, as may be convenient and necessary for the performance of the duties imposed upon him. One bureau shall be charged with the duty of preventing and extinguishing fires and of protecting property from water used at 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." The salary of said inspector of combustibles shall be three thousand dollars a year. Another bureau shall be charged with the investigation of the origin and cause of fires, the principal officers of which shall be called "fire marshals." A branch of said bureau shall be located in the borough of Brooklyn.

Selection of subordinates.

§ 728. The fire commissioner shall have power to select heads of bureaus and assistants and as many officers and firemen as may be necessary, and they shall at all times be under

the control of the fire commissioner, and shall perform such duties as may be assigned to them by him, under such names or titles as he may confer; provided, however, that assignments to duty and promotions in the uniformed force shall be made by the fire commissioner upon the recommendation of the chief of department, and in case any recommendation so made by the chief shall be rejected, he shall, within three days, submit another name or names, and continue so to do until the assignment or promotion is made. Promotions of officers and members of the force shall be made by the fire commissioner as provided in section one hundred and twenty-four of this act on the basis of seniority, meritorious service in the department and superior capacity as shown by competitive examination. Individual acts of personal bravery may be treated as an element of meritorious service in such examination, the relative rating therefor to be fixed by the municipal civil service commission. The fire commissioner shall transmit to the municipal civil service commission in advance of such examination the complete record of each candidate for promotion.

Location of fire alarm telegraph, etc.; penalty for interference therewith.

§ 729. The fire commissioner 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 officers 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 he may deem necessary; and no person other than the said commissioner or the officers and employees specially authorized to operate said telegraph, or to use the same for instruction or drill, or po-

licemen 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 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 similar 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 police board and their officers are specially charged and directed to aid in the enforcement of this section.

Business offices; seal.

§ 730. The said fire commissioner shall, subject to the other provisions of this act, provide such offices and business accommodations as may be requisite for the transaction of the business of the department and that of its subordinates. The commissioner may adopt a common seal and direct its use.

Suits and actions.

§ 731. The fire commissioner 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 fire commissioner 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 fire commissioner 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 municipal courts in said city; and the assistant corporation counsel assigned to the fire department shall, under the direction of the fire commissioner, 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, 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 fire commissioner is authorized to settle or compromise any such suit or judgment for less than the amount of the same, in case, in his judgment, he is satisfied that the full amount cannot be collected.

Members of force to decline nominations to office.

§ 732. Any officer or member of the uniformed force of said department who shall 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 in the fire department.

Uniforms and badges.

§ 733. It shall be the duty of the fire commissioner to make suitable regulations under which the officers and men of the

fire department shall be required to wear an 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. No employee of any contractor for the making of uniforms for the fire department shall have an office within the said fire department. It shall be a misdemeanor, punishable by imprisonment 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 fire department, or do any act as fireman not duly authorized by the commissioner, or to interfere with the property or apparatus of the fire department in any manner unless by the authority of the fire commissioner. Any person who shall falsely represent any member of the uniformed force 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 collected, to be paid over to the trustees of the New York fire department relief fund.

Qualifications of force.

§ 734. No person shall 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 felony; nor shall any person be appointed who can not read and write understandingly [in] the English language, or who shall not have resided within the state one year immediately prior to his appointment, or who is not over the age of twenty-one and under the age of thirty years. Every member of the uniformed force shall reside within the limits of The City of New York.

Resignations and absences.

§ 735. 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 fire commissioner. 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.

Military and jury duty; arrest.

§ 736. 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.

Warrants of appointment.

§ 737. Every member of the uniformed force shall have issued to him a proper warrant of appointment signed by the fire commissioner.

Oaths of office.

§ 738. 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.

Discipline, etc.

§ 739. The government and discipline of the fire department shall be such as the fire commissioner may, from time to time, by rules, regulations, and orders prescribe. The fire commissioner shall have power, in his 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 member 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 shall have been publicly examined into, upon such reasonable notice of not less than forty-eight hours to the person charged, and in such manner of examination as the rules and regulations of the fire commissioner may prescribe. The trial of any member of the uniformed force upon charges

shall be held in the borough within which the accused member was serving at the time the charge was preferred. The examination into such charges shall be conducted by the fire commissioner or by a [the] deputy commissioner; but no decision shall be final or be enforced, until approved by the fire commissioner. [No] Neither the fire commissioner nor any deputy fire commissioner nor any member of the uniformed force shall be permitted to contribute any moneys directly or indirectly to any political fund, or to join or become or be a member of any political club or association, or of any club or association intended to affect legislation for or on behalf of the fire department or any officer or member thereof, or to contribute any money directly or indirectly for such purpose. The rules and regulations now [established in the respective fire departments of the city of New York, the city of Brooklyn and Long Island City,] in force shall continue in force until modified or repealed by said commissioner. The rules and regulations of the fire department, [when] as established from time to time by the fire commissioner, shall be printed, published and circulated among the officers and members of said department.

Grades, ranks and salaries of officers and members of the uniformed force.

§ 740. The ranks and salaries of officers of the fire department shall be as follows: Chief of department, whose annual salary shall be not more than six thousand dollars [nor less than five thousand dollars]; deputy chiefs of department, whose annual salary shall be not more than four thousand two [five] hundred dollars [nor less than three thousand five hundred dollars]; battalion chiefs, whose annual salary shall be not more than three thousand three [five] hundred dollars [nor less than two thousand seven hundred and fifty dollars]; captains or foremen of companies, whose annual salary shall be not more than two thousand one [five] hundred and sixty dollars [nor less than eighteen hundred dollars]; lieutenants or assistant foremen of companies, whose annual salary shall be not more than eighteen hundred dollars [nor less than one thousand five hundred dollars]; engineers of steamers, whose annual salary shall be one thousand six hundred dollars.

From and after January first, eighteen hundred and ninety-eight, the uniformed members of the fire department who are firemen shall be divided into four grades, to wit, first, second, third and fourth, and shall receive an annual pay or compensation as follows: Members of the first grade, fourteen hundred dollars; members of the second grade, twelve hundred dollars; members of the third grade, one thousand dollars, and members of the fourth grade, eight hundred dollars. The members of the uniformed force who are appointed after January first, eighteen hundred and ninety-eight; shall be assigned to the fourth grade; after one year of service in the fourth grade, they shall be advanced to the third grade; after one year of service in the third grade, they shall be advanced to the second grade; after one year of service in the second grade, they shall be advanced to the first grade, and they shall in each instance receive the annual pay or compensation of the grade to which they belong as herein provided. All persons who, when this act takes effect, are firemen in the uniformed force of the fire department of the corporation heretofore known as the mayor, aldermen and commonalty of the city of New York, or of the city of Brooklyn, or of the corporation heretofore known as Long Island City, shall thereupon become firemen of that grade having a salary thereto attached equal to the salary or compensation paid such firemen, respectively, at the time of the taking effect of this act; provided, however, that any such fireman who has been a member of the uniformed force in the city of Brooklyn, or in Long Island City, whose salary falls between any two of the grades hereby established, shall within three years have his salary made equal to the salary of the first grade by equal annual additions. Nothing in this section contained shall be construed to change in any way the salaries or grading, present or prospective, of the firemen who are or shall become members of the uniformed force of the New York fire department prior to January first, eighteen hundred and ninety-eight; and nothing in this section contained shall be construed to affect in any other way than as provided herein the rights and privileges secured under the provisions of this act to uniformed members of the various fire departments consolidated into one department by this act. The pay or compensation of the officers of the fire department and each of them mentioned in the first paragraph of this section, and

also the pay or compensation of district engineers and officers ranking as such, and of any other officers who, when this act takes effect, belong to the uniformed force of either of the fire departments hereby consolidated into one department, shall be and remain fixed at the amount which they and each of them were severally receiving or entitled to receive from the respective municipal corporations in whose employ they were prior to the taking effect of this act; provided, however, that the salaries of all such officers in either of said fire departments other than the New York department, so consolidated into one department, shall be made equal to the salaries of corresponding officers in said New York department within three years from January first, eighteen hundred and ninety-eight, by equal annual additions; and provided further that if the difference in the pay received by such officers and the pay received by corresponding officers of the New York fire department as heretofore existing, is not more than fifty dollars, when this act takes effect, the pay shall be equalized at once. The pay or compensation aforesaid shall be paid monthly to each person entitled thereto, subject to such deductions each month from the pay or compensation of said persons as are or shall be authorized by law or by this act; and no pay or compensation shall be allowed or paid to any such fireman or officer, except as in this section provided for and declared, any other law to the contrary or otherwise notwithstanding.

Police department to co-operate.

§ 741. It shall be the duty of the fire department and of the police department, their respective officers and men, to co-operate together in all proper ways, and the said police department and fire 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 police department or fire department.

TITLE 2.

Fires and Their Extinction.

Right of way of fire department; obstructing.

§ 748. The officers and men of the fire department, and the officers and men of the insurance patrol respectively, with their

apparatus of all kinds, when on duty, shall have the right of way at and in proceeding to any fire 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 any vehicle who shall refuse the right of way, or in any way obstruct any fire apparatus, or any apparatus of the insurance patrol, 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.

Hose-bridges on railway tracks.

• § 749. The fire commissioner is empowered to provide for laying over the railway tracks of the city the hose used by the department for the extinguishment of fire by such hose-bridges as he may deem necessary. The various railway companies operating cars within the limits of The City of New York as constituted by this act shall provide, pay for and use such hose-bridges as may be designated by the said commissioner.

Fire hydrants not to be obstructed.

§ 750. 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 department and at the risk, cost and expense of the owner or claimant, and said fire commissioner may take all proper measures to keep said hydrants from freezing, and in proper condition for use at all times.

Sappers and miners.

§ 751. The fire commissioner 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 commissioner, upon the nomination of the chief of department. The said commissioner 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 commissioner.

Id.; duties of.

§ 752. Whenever, under and by virtue of the acts relating to the extinguishment of fires in the 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 said city, it shall be the duty of said corps, or any member or members thereof, by the direction of 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.

Explosives; depots for storage of.

§ 753. The fire commissioner 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.

Pulling down buildings to prevent spread of fire.

§ 754. When any building or buildings in The City of New York shall be on fire, it shall be lawful for the fire commissioner to direct and order the same, or any other building which he 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 or its contents, to

the supreme court, in and for the county or any adjoining county, in the judicial department within which such building is situated, it shall be its duty to issue a precept for a jury to inquire into and assess the damages which the owners of such building and all persons having an estate or interest therein or in the contents thereof, have respectively sustained by the pulling down or destruction [thereof,] of said building or its contents. Such [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 is provided in the case of land taken for public purposes; and, the said inquiry and assessment having been confirmed by the court, the sums assessed by the jury shall be paid by The City of New York 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 destruction of such building or its contents; 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.

Idle persons, etc., may be removed from fires.

§ 755. 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.

TITLE 3.

Prevention of Fires—Explosives and Combustible Materials.

Hoistways, iron shutters, etc., to be closed.

§ 761. 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 the 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 or 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 any officer, agent, or employee of said fire department 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 commissioner, 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 fire commissioner for and in behalf of] any person injured, or the family or relatives of any person killed as aforesaid; and any or all persons for any fire, resulting from his or their wilful or culpable negligence or criminal intent or design, shall, in addition to the present provision 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 or property, the result of such fire, and also for the payment of all costs and expenses of said fire department incurred in and about the use of employees, apparatus, and materials in the extinguishment of any fire resulting from such cause, the amount of such costs and expenses to be fixed by said commissioner, 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 fire department 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.

Criminal liability if death results from violation of foregoing rules.

§ 767. In case any person is burned by the explosion of any compound, the sale of which is prohibited by any law or ordinance [section of this title], or which 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 dol-

lars, 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. 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 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 endorse 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.

Right to enter buildings, etc., for purposes of examination.

§ 771. The commissioner and his officers or agents, under the direction of the commissioner, 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 law or ordinance [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 any law or ordinance [this title] exists therein, may deliver a written or printed notice, containing [an extract from this title,] a copy 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 commissioner in such notice, the party offending shall forfeit 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.

Information to be furnished by holders of permits.

§ 772. 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.

TITLE 4.

Fire Marshals and Investigation of Origin of Fires.

Investigation of fires, etc.

§ 779. The fire commissioner is hereby authorized to appoint and remove a fire marshal for the boroughs of Manhattan, The Bronx and Richmond, and a fire marshal to be seated in Brooklyn and to exercise his powers within the boroughs of Brooklyn and Queens. Said fire marshals shall, within such boroughs, respectively, to which they may be assigned, have and possess all the powers heretofore conferred by law upon the fire marshal of the corporation heretofore known as the mayor, aldermen and commonalty of the city of New York. The salary of each of said fire marshals shall be three thousand dollars a year. The fire commissioner, himself or by said marshals, is hereby authorized and empowered to investigate, examine and inquire into the origin, details and management of fires in the 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 the fire commissioner 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 fire department, or any supposed cases of arson or incendiarism, which may be brought to his notice; and said fire commissioner in and about any examination, investigation or inquiry before him or his marshals, touching any matter or thing therewith connected, may subpoena and compel the attendance of any person or persons, 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 the fire commissioner connected with and necessary to such examination, investigation or inquiry, before him or his marshals, at the time and place therein named; and for the purpose aforesaid, the corporation counsel may, at any time, obtain to be issued subpoenas out of the supreme court, attested 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 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 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 punishment for contempts, and usual in said court, or before any justice thereof, shall be applicable thereto. Said commissioner and fire marshals, 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 commissioner or fire marshal 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 fire commissioner in the discharge of his 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 fire department, and shall in no manner be used in any criminal proceeding or action, but may be placed before any grand jury in said city of New York. Such investigations in relation to the subject matter hereinabove defined within the boroughs of Brooklyn and Queens, shall be carried on by the deputy commissioner and fire marshal seated in the borough of Brooklyn, under the direction of said fire commissioner.

Fire marshals may enter buildings to examine them.

§ 780. It shall be the duty of a 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 commissioner, 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, such fire marshal, under the direction of said commissioner, shall cause said 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. And in addition thereto the party so offending shall forfeit the sum of fifty dollars, to be recovered in said action or in an action brought therefor by the fire commissioner.

Id.; to trace the cause of fires; arrest of suspected persons.

§ 781. It shall be the duty of a 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. Such 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 fire commissioner with his report in writing, embodying his opinion and conclusions in relation to the matter investigated. Such fire marshal shall report in writing to the fire department, to the police department, 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 opinion, require attention from or by either of said departments, officers or persons; and it shall be the duty of such 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 fire commissioner, as often as such commissioner shall require, his proceedings, and the progress made in all prosecutions for arson, and the result of all cases which are finally disposed of.

Id.; may compel attendance of witnesses.

§ 782. A 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 fire commissioner 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 hereby is 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 fire commissioner to make an order that the said witness be arrested and brought before 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 marshals 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 building and premises adjoining and near to that in which the fire occurred.

Id.; commissioner may supervise investigations by.

§ 783. It shall be the duty of the fire commissioner to supervise and direct, whenever he shall be of opinion that the public interest will be subserved thereby, the investigations, examinations, and proceedings of said marshals, 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.

*Relief Fund and Pensions.***Of what fund consists; officers and investment.**

§ 789. The New York fire department relief fund shall consist of:

1. The capital, interest, income, dividends, cash deposits, securities and credits formerly or now belonging to said funds in any of the municipal and public corporations, or parts thereof, hereby consolidated into The City of New York.

2. All forfeitures and fines imposed by the fire commissioner, from time to time, upon any member or members of the fire department force by way of discipline.

3. All rewards, in money, fees, gifts, testimonials and emoluments that may be paid or given for account of extraordinary services by any member of the fire department force, except such as have been or shall be allowed by the fire commissioner, to be retained by said member or members, and such as have been or shall be given to endow a medal or other permanent or competitive reward.

4. All proceeds of suits for penalties, under title three of this chapter, and all license fees payable under the same.

5. All proceeds of sales of condemned horses and other personal property in use by said department.

6. All moneys, pay, compensation or salary, or any part thereof forfeited, deducted or withheld from any member or members of the fire department force, for or on account of absence from duty, to be paid monthly to the treasurer of the said relief fund, by the comptroller of The City of New York, and the fire commissioner is authorized and empowered, in his discretion, to deduct and withhold pay, salary or compensation from any member or members of said force, for or on account of absence from duty, except when such absence shall be caused by sickness or disability, for which leave of absence shall have been granted, in accordance with the rules of said department.

7. Ten per centum annually of all excise moneys or license fees belonging to The City of New York, as constituted by this act, and derived or received by any commissioner of excise or public officer, from the granting of licenses, or per-

mission to sell strong or spiritous liquors, ale, wine or beer, or of any moneys paid for taxes upon the business of trafficking in or selling or dealing in strong or spiritous liquors, ale, wine or beer in The City of New York, under the provisions of any law of this state authorizing the granting of any such license or permission; the said ten per centum thereof to be paid **[quarterly]** by the comptroller of said city, who is hereby authorized and required to pay the same to the treasurer of the said relief fund, for the benefit thereof, without any action or authority of or from the board of estimate and apportionment, such sum to amount in each and every year to not more than one hundred and fifty thousand dollars, nor to exceed such an amount, if any, as may be required at the end of any fiscal year to bring the surplus in such relief fund over and above all charges then existing against the same up to the sum of two hundred thousand dollars. The commissioner of the fire department of The City of New York is hereby constituted and declared to be the trustee of the New York fire department relief fund, shall receive all moneys applicable to the same and deposit the same, as such trustee, to the credit of such relief fund, in banks or trust companies to be selected by him, and continue to receive and deposit the funds applicable to the same, as received, to the credit of said fund, or to invest the same in bond and mortgage on improved property worth twice the amount loaned, or in public stocks, as said trustee may deem most advantageous for the object of such fund, and said trustee is 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 trustee for and on behalf of the uses and purposes of said fund, shall be entitled to receive, and there shall be paid to him 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 now entitled, except as in this act otherwise specially provided, and the said trustee may take, by gift, grant, devise or bequest, any money, real or personal

property, right of property for 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 trustee, necessary, he may receive from the board of estimate and apportionment of The City of New York, a sum not exceeding ten thousand dollars, to be included in the annual estimate of the fire commissioner and drawn and collected by him in like manner as the other moneys applicable to his expenses; and such amounts so obtained shall, in like manner, be paid to and applied by the treasurer to the uses of said fund, by deposit or investment as hereinbefore provided, as the trustee thereof shall direct; provided, 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 uses and purposes of said relief fund.

8. On or before the first day of February of each year, the trustee shall make a verified report to the mayor of his proceedings as such trustee, containing a statement of all receipts and disbursements on account of said fund, together with the names and residences of each beneficiary and the amounts paid to such beneficiary for or on account of said fund. There shall be an auditing committee consisting of three members to be appointed by the mayor as follows: two members to be selected from among the officers and members of the uniformed force of the fire department and one member to be selected from the retired members of the fire department. It shall be the duty of this committee on or before the first day of March in each year to examine the condition of said relief fund and to audit the account of the said trustee.

Retiring members of fire department; pensions, etc.

§ 790. The fire commissioner shall have power 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 said department, who may, upon an examination by the

medical officers, ordered by the said fire commissioner, 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 said relief fund an annual allowance as pension in case of total disqualification for service, or as compensation for limited service in case of partial disability; in every case, the said fire commissioner is to determine the circumstances thereof, and said pension or allowance so allowed is 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, at any time, 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. But should permanent disability caused by injuries received in the active discharge of his duties disqualify him only from performing active duty in the uniformed force, he shall be employed at the salary received when such disability occurred in some position in the department not requiring active service as a fireman. 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 service, subject to the rules governing said force, and to the performance of such light duties as the medical officer of the said fire department may certify him to be qualified to perform; and the annual allowance to be paid such member or officer 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 disability, not caused 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 said department may certify him to be qualified to perform, and the annual allowance to be paid to 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 fire commissioner may, in his discretion, determine, or as the condition of the fund will warrant. Any officer or member of the uniformed force of the said fire department of The City of New York, who has or shall have performed duty therein for a period of twenty years or upwards, shall upon his own application, in writing, or upon a certificate of the board of medical officers showing that such member is permanently disabled, physically or mentally, so as to be unfit for duty, be retired and dismissed from said force and service, and placed on the roll of the relief or pension fund, and awarded and granted, to be paid from the said relief or pension fund, an annual pension during his lifetime of a sum not less than one-half the full salary or compensation of such member so retired. The pensions granted under this section shall be for the natural life of the pensioner, and shall not be revoked, repealed or diminished; provided, however, that no member of either of the uniformed fire departments by this act consolidated, having a right to retire on pension at the time this act takes effect, shall be deprived of such right by reason of his remaining a member of said fire department, or of anything in this act contained.

Trustee of relief fund; when to pay pensions.

§ 791. The trustee of the relief fund is authorized and empowered, from time to time, to pay a pension out of said relief fund to the widow, child or children or dependent parent or parents 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 uniformed force, or after he was retired from service in said uniformed force; provided, that the amount of any such pension to be paid by the said trustee 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 trustee 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 trustee, 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. In case any officer or member of the uniformed force of said department is hereafter killed while actually engaged in the performance of duty, or if death ensues as the immediate effect of injuries so received the trustee of said relief fund shall have the power to award to the widow of such officer or member an annual allowance as a pension, to be paid out of the said relief fund, in an amount not to exceed one-half of the salary or compensation of such officer or member at the date of his decease. If such officer or member dying leaves no widow surviving him, but leaves a child or children, under the age of eighteen years, or dependent parent or parents, the said trustee shall have the power to award to the legal guardian of such child or children, or dependent parent or parents, for its or their support and maintenance, an annual allowance out of said relief fund, in amount not to exceed one-half of the salary or allowance of such officer or member at the date of the decease. The amount of such annual allowance to any widow shall not exceed the sum of one thousand dollars, and shall cease upon her death or remarriage, or if she shall have been guilty of conduct which, in the opinion of said trustee, renders further payment inexpedient. The amount of such

annual allowance to any one such child, or dependent parent or parents, shall not exceed the sum of five hundred dollars, and in every case such payment shall cease upon the death or marriage of such child, or upon its reaching the age of eighteen years. If such payment to the widow of any such officer or member shall cease by reason of her death, remarriage or misconduct, the said trustee shall have power to make payments to the child or children or dependent parent or parents of such officer or member, if any, as though he had died without leaving a widow surviving him. The widows and orphans and retired members of the Brooklyn fire department, or of any other fire department of any of the municipal and public corporations or parts thereof hereby consolidated, shall be entitled to receive from the fire department pension fund herein created the amounts which they would respectively have been legally entitled to receive on the thirty-first day of December, eighteen hundred and ninety-seven, from any fire department pension or relief fund heretofore existing in any of said municipal corporations or parts thereof.

Life insurance fund.

§ 792. The life insurance fund shall consist of all moneys that are now to the credit of the New York fire department life insurance fund, and the Brooklyn fire department widows' and orphans' relief fund; and all persons who have paid into the said respective funds, and who shall continue to pay into the life insurance fund, shall receive the benefits of said fund as provided in this chapter. 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 other employees of said department as shall heretofore have availed themselves of this provision, the monthly sum of one dollar, which shall be received and [held] deposited by the treasurer of the relief fund to the credit of [in the like manner as the other moneys herein provided to be paid to him, and which shall be known as] the New York fire department life insurance fund, in a bank or trust company to be selected by him and to continue to receive and deposit the funds applicable to the same to the credit of said fund. The said treasurer shall make a semi-

annual report verified by him of the condition of said fund containing a statement of all receipts and disbursements for or on account of said fund, together with names of all beneficiaries and the amount paid to each, and file said report in the office of the comptroller. When the amount of such fund shall equal the sum of twenty-five thousand dollars, assessment shall only be made to maintain said fund at the said sum of twenty-five thousand dollars. [and in] In case of the death of any member or employee of said department in the service thereof, who has availed himself of this provision, 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 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 trustee, 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. None but members of the uniformed force shall hereafter be eligible to membership in this fund. 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 trustee, necessary, a sum not exceeding five thousand dollars may be transferred and paid over from the said relief fund to the said life insurance fund for the use and purpose of said life insurance fund.

TITLE 6.

Tax upon Foreign Insurance Companies.

Corporations liable to taxation.

§ 798. 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 centum upon its gross premiums received for insurance upon property, in The City of New York shall, except as otherwise in this title provided, be paid annually to the fire commissioner as 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 City of New York, 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.

Moneys paid to department by insurance companies, etc.

§ 799. There shall be paid to the fire commissioner as 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 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 insurance against losses or injury by fire in The City 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.

Account of premiums by city agent.

§ 800. 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 fire commissioner as 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.

Undertaking.

§ 801. 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 fire commissioner as treasurer, an undertaking, under seal, to the fire department, with such sureties as the said treasurer shall approve that he will, on the first day of February, in each year, render 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, on the first day of February in each year, pay to the said fire commissioner as treasurer two dollars upon every hundred dollars, and at that rate upon the amount of such premiums.

Id.; renewal of.

§ 802. 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 have or may be deemed insufficient by the said fire commissioner as treasurer to secure a return of the account and the payment of the duty aforesaid, or either of them, the said commissioner as treasurer, at his election, but not oftener than once in each year, may require such undertaking to be renewed.

Id.; penalty for not executing.

§ 803. Every person who shall effect, agree to effect, promise or procure any insurance mentioned in the preceding sections of this title, without having executed and delivered 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 fire commissioner as treasurer to re-

new his undertaking, pursuant to the last preceding 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.

Demand for accounts.

§ 804. It shall be lawful for the fire commissioner as 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 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 any suit for the recovery thereof.

Place of business to be reported.

§ 805. 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 city, report in writing, under his proper signature, to the comptroller of this state, and also to the fire commissioner as 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.

Suits for violations.

§ 806. 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 commissioner, for the use of said department.

Arrest of defendant.

§ 807. 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.

Tax on receipts of foreign fire insurance companies.

§ 808. The corporation known as "The Trustees of the Exempt Firemen's Benevolent Fund of The City of New York," shall be entitled to collect, and there shall be paid to it until the seventeenth day of January, nineteen hundred and seven, the percentage of tax on the receipts of the foreign fire insurance companies doing business in The City of New York, as heretofore constituted, as provided by this title, except as to business done by said foreign fire insurance companies in that part or portion of said city, known and designated as the twenty-third and twenty-fourth wards, and all returns and undertakings required by this title, except as to such business in the said twenty-third and twenty-fourth wards, shall, during such period, be made to the treasurer of the trustees of such corporation. The trustees of the exempt firemen's benevolent fund, of The City of New York, shall render to the fire commissioner of The City of New York and to the treasurer of the Firemen's Association of the state of New York, quarterly, in each year, a sworn statement in detail of the amounts collected and received, and from whom and from what source, on account of said tax, during each quarter; and shall, at the same time, pay over to the said fire commissioner, as treasurer, forty-five per centum of the amount so collected and received in each quarter year, for the use and benefit of the relief fund of the

fire department of The City of New York, and to the treasurer of the Firemen's Association of the state of New York, ten per centum of the amount so collected and received, for the endowment, benefit and maintenance of the Volunteer Firemen's Home, at Hudson, Columbia county, New York, and the moneys so received by the treasurer of such association shall be paid by him to the treasurer of the Volunteer Firemen's Home Association, upon the order of the board of trustees thereof, as provided by the by-laws of the said Home Association, and the balance of said fund shall be applied to the uses and purposes of said corporation, as defined and provided by chapter fifteen of the laws of eighteen hundred and eighty-six. The said corporation may maintain in its corporate name any action or actions in any court of record of this state to recover the tax or percentage aforesaid during such period, and also to recover for the breach of any bond or undertaking, which has been given or may be given to it pursuant to the provision of this title, or any penalty imposed thereby. The corporation known as "The Exempt Firemen's Benevolent Fund Association of the Twenty-third Ward of The City of New York (late town of Morrisania, in the county of Westchester), in the county of New York," shall be entitled to collect, and there shall be paid to it until the seventeenth day of January, nineteen hundred and seven, the percentage or tax on receipts of the foreign fire insurance companies in the twenty-third and twenty-fourth wards of The City of New York, as provided for by this title, and all returns for such business in said twenty-third and twenty-fourth wards shall, during such period, be made to the treasurer of said last-named corporation. The said last-named corporation shall, during said period, render to the fire commissioner of The City of New York, and to the treasurer of the Firemen's Association of the state of New York, quarterly, in each year, a sworn statement in detail of the amounts collected and received, and from whom and from what source, on account of said tax, during each quarter, and shall, at the same time pay over to said fire commissioner, as treasurer, forty-five per centum of the amount so collected and received in each quarter year, for the use and benefit of the relief fund of the fire department of The City of New York, and to the treasurer of The Firemen's Association of the state of New York, ten per centum of the amount so collected and received, for the endowment, benefit

and maintenance of the volunteer firemen's home, at Hudson, Columbia county, New York, and the moneys so received by the treasurer of such association shall be paid by him to the treasurer of the Volunteer Firemen's Home Association, upon the order of the board of trustees thereof, as provided by the by-laws of said Home Association, and the balance of the moneys so collected and received by it during such period shall be applied to the uses and purposes of said corporation, as defined and provided by chapter four hundred and ninety-eight of the laws of eighteen hundred and seventy-five. The said last-named corporation may maintain in its corporate name any action or actions in any court of record of the state of New York, to recover the tax or percentage aforesaid upon such business done in said twenty-third and twenty-fourth wards during such period, and also to recover for the breach of bond or undertaking which has been or may be given to it pursuant to the provisions of this title, or any penalty imposed thereby. From and after the seventeenth day of January, nineteen hundred and seven, the said percentage of tax shall be collected by the treasurer of the fire department of The City of New York, as provided in this title, and thereafter until the seventeenth day of January, nineteen hundred and seventeen, the treasurer of said fire department shall render to the said corporation known as "The Trustees of the Exempt Firemen's Benevolent Fund of The City of New York," and to the treasurer of the Firemen's Association of the state of New York, quarterly, in each year, a sworn statement in detail of the amounts collected and received, and from whom and from what source, on account of said tax, during each quarter, excepting the amounts collected in that portion of said city, known as the twenty-third and twenty-fourth wards, and shall, at the same time, pay over to the said treasurer of the corporation known as "The Trustees of the Exempt Firemen's Benevolent Fund of The City of New York," forty-five per centum of the amount so received in each quarter year, for the use and benefit of the said benevolent fund, and to the treasurer of the Firemen's Association of the state of New York ten per centum of the amount so received in each quarter year, for the endowment and maintenance of the said volunteer firemen's home; and the money so received by the said treasurer shall be paid over to the treasurer of said volunteer firemen's home in the manner aforesaid. The said treasurer

of the fire department shall appropriate and apply the remainder of the moneys so to be collected and received to the uses and purposes of the relief fund of said department. Until the seventeenth day of January, nineteen hundred and seventeen, the treasurer of said fire department shall render to the treasurer of the corporation known as the trustees of "The Exempt Firemen's Benevolent Fund Association of the Twenty-third and Twenty-fourth Wards of The City of New York (late town of Morrisania, in the county of Westchester), in the county of New York," and to the treasurer of the Firemen's Association of the state of New York, quarterly, in each year, a sworn statement in detail of the amounts collected and received, and from whom and from what source, on account of said tax, during each quarter, in that portion of the said city known as the twenty-third and twenty-fourth wards, and shall, at the same time, pay over to the said treasurer of the said corporation known as the trustees of "The Exempt Firemen's Benevolent Fund Association of the Twenty-third Ward of The City of New York (late town of Morrisania, in the county of Westchester), in the county of New York," forty-five per centum of the amount so received in each quarter year, for the use and benefit of the said corporation, and to the treasurer of the said firemen's association of the state of New York, ten per centum of the amount so received in each quarter year, for the endowment and maintenance of said volunteer firemen's home, and the moneys so received by said treasurer shall be paid over to the treasurer of said volunteer firemen's home in the manner aforesaid. The said treasurer of the fire department shall appropriate and apply the remainder of the moneys so to be collected and received by it to the uses and purposes of the relief fund of said department. The said corporations known respectively as "The Trustees of the Exempt Firemen's Benevolent Fund Association of The City of New York," and "The Exempt Firemen's Benevolent Fund Association of the Twenty-third Ward of The City of New York (late town of Morrisania, in the county of Westchester), in the county of New York," shall each make an annual report to the comptroller of the state of New York, on or before the first day in January in each year, duly verified by the president and treasurer thereof, of the amount of money received during the year, and from whom and from what source received, and giving in detail the names and residences of all persons to whom

and for what purposes any moneys were paid, with the amount paid to each recipient, and of the amount of money on hand, and how invested.' No trustee, officer or agent of either of said corporations shall grant or give to any beneficiary or other person any greater sum than shall have been determined by the board of trustees of such corporation by a vote of a majority of such trustees, after due investigations of the circumstances of each case, and all payments of pensions or donations shall be made by the treasurer upon such order of the trustees of the corporation, and for all such payments the treasurer shall take receipts from the beneficiaries receiving the same, which receipts shall be filed with his report to the trustees of the corporation.

Tax on receipts of foreign fire insurance companies doing business in the borough of Brooklyn.

§ 809. There shall be paid to the fire commissioner, until the seventeenth day of January in the year nineteen hundred and seventeen, the percentage or tax upon the receipts of foreign fire insurance companies doing business in the borough of Brooklyn; and said commissioner shall cause the moneys so paid to him to be paid out and disposed of as follows:

1. To the New York fire department relief fund, forty-five per centum.
2. To the treasurer of the Firemen's Association of the State of New York, who shall pay over the same to the treasurer of the Volunteer Firemen's Home at Hudson, New York, ten per centum.
3. To the treasurer of the widows and orphans fund of the late volunteer fire department of the western district of the late city of Brooklyn, twenty per centum.
4. To the treasurer of the widows and orphans fund of the late volunteer fire department of the eastern district of the late city of Brooklyn, thirteen and one-third per centum.
5. To the treasurer of the widows and orphans fund of the late volunteer fire department of the former town of New Lots, three and one-third per centum.
6. To the treasurer of the widows and orphans fund of the late volunteer fire department of the former town of Flatbush, two and one-third per centum.
7. To the treasurer of the widows and orphans fund of the late volunteer fire department of the former town of Gravesend, two and one-third per centum.

8. To the treasurer of the widows and orphans fund of the late volunteer fire department of the former town of New Utrecht, two per centum.

9. To the treasurer of the widows and orphans fund of the volunteer fire department of the former town of Flatlands, one and two-thirds per centum.

The fire commissioner shall quarterly in each year render to each of the foregoing associations a sworn statement in detail of the amounts collected and received by him as aforesaid, and from whom and from what source on account of said tax during each quarter. And the custodian or trustees receiving moneys under the provisions of this act in the borough of Brooklyn shall annually make and render to the fire commissioner in the month of January a sworn statement as to the expenditure of said funds, and upon failure so to do the fire commissioner may withhold the said percentage and it shall be paid over to the New York fire department relief fund, and any use of said percentage for purposes other than provided by law shall be a misdemeanor and be punishable as such.

Tax on receipts of foreign fire insurance companies doing business in the borough of Richmond.

§ 810. There shall be paid to the fire commissioner until the seventeenth day of January in the year nineteen hundred and seventeen a percentage or tax upon the receipts of foreign fire insurance companies doing business in the borough of Richmond; and said commissioner shall cause the money so paid to him to be paid out and disposed of as follows:

1. To the New York fire department relief fund, forty-five per centum.

2. To the treasurer of the Firemen's Association of the State of New York, who shall pay over the same to the treasurer of the Volunteer Firemen's Home Association at Hudson, New York, ten per centum.

3. To the treasurers of the exempt or veteran volunteer firemen's associations existing in the borough of Richmond at the time this act takes effect, forty-five per centum. Said forty-five per centum shall be apportioned by said fire commissioner among all such associations in proportion to the actual bona fide membership of each such association on the first day of January next preceding the time when such appor-

tionment is made. In determining the membership of such associations only exempt or honorably discharged volunteer firemen shall be considered as members.

The fire commissioner shall quarterly in each year render to each of the foregoing associations a sworn statement in detail of the amounts collected and received by him as aforesaid and from whom and from what source on account of said tax during each quarter.

Tax on receipts of foreign insurance companies doing business in the borough of Queens.

§ 811. There shall be paid to the fire commissioner until the seventeenth day of January, nineteen hundred and seventeen, the percentage or tax upon the receipts of foreign fire insurance companies doing business in the borough of Queens; and said commissioner shall cause the moneys so paid to him to be paid out and disposed of as follows:

1. To the New York fire department relief fund, forty-five per centum.
2. To the treasurer of the Firemen's Association of the State of New York, who shall pay over the same to the treasurer of the Volunteer Firemen's Home Association at Hudson, New York, ten per centum.
3. To the treasurers of the exempt or veteran volunteer firemen's associations existing in the borough of Queens at the time this act takes effect, forty-five per centum. Said forty-five per centum shall be apportioned by said fire commissioner among all such associations in proportion to the actual bona fide membership of each such association on the first day of January next preceding the time when such apportionment is made. In determining the membership of such associations only exempt or honorably discharged volunteer firemen shall be considered as members.

The fire commissioner shall quarterly in each year render to each of the foregoing associations a sworn statement in detail of the amounts collected and received by him as aforesaid and from whom and from what source on account of said tax during each quarter.

CHAPTER XVI.

DOCKS, PIERS, HARBOR, PORT AND WATERS.

Title 1. Department of docks and ferries.

Title 2. Piers, slips and wharfage.

Title 3. General provisions.

TITLE I.

Department of Docks and Ferries.

Board of docks, commissioners, appointment, term of office, president and salaries.

§ 816. The head of the department of docks and ferries shall be called the board of docks. The board of docks shall consist of three persons, to be known as commissioners of docks. They shall be residents of The City of New York, and shall be appointed by the mayor, and hold their respective offices as provided in chapter four of this act. Said commissioners shall elect one of their number president of said board. The salary of the president shall be six thousand dollars a year, and the salary of each of the other two commissioners shall be five thousand dollars a year.

Extension of jurisdiction to new territory.

§ 817. All the powers and duties heretofore vested in and devolved upon the department of docks, of the mayor, aldermen and commonalty of the city of New York, are devolved upon and vested in the department of docks and ferries hereby created, and in addition thereto the powers and duties of said department are hereby extended so as to include all the water front, wharf property, lands under water, wharves, piers, bulkheads and structures thereon situate, within the [city of Brooklyn] county of Kings; the county of Richmond and [that portion of Queens county by this act consolidated with the corporation known as the mayor, aldermen and common-

alty of the city of New York;] the county of Queens; and the said board of docks shall have the same powers, subject to the approval of the commissioners of the sinking fund, to adopt and execute a plan or plans for the water front of The City of New York, as constituted by this act, and to fix and establish the line of solid filling, bulkheads and pier-head lines, the distances between piers, methods and character of construction of wharves and piers within the entire territory of The City of New York, as constiuted by this act, that the said department of docks possessed at the time this act takes effect within the territory of The City of New York, as heretofore known and bounded.

Jurisdiction, powers and duties.

§ 818. The board of docks shall have exclusive charge and control, subject in the particulars hereinafter mentioned to the commissioners of the sinking fund, of the wharf property belonging to the corporation of The City of New York, as constituted by this act, including all the wharves, piers, bulkheads and structures thereon, and waters adjacent thereto, and all the slips, basins, docks, waterfronts, 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 board 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 board is also hereby invested, except as otherwise expressly stated in this act, with the exclusive government and regulation of all wharf property, 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. The board of docks shall not have power to change the exterior line of piers and bulkheads, established by law. The board of docks shall also have exclusive charge and control, subject in the particulars hereinafter mentioned to the commissioners of the sinking fund, of all ferries and ferry property belonging

to the corporation of The City of New York, as hereby constituted. The said board of docks is hereby empowered, when the approval of the commissioners of the sinking fund shall have been obtained, to establish, from time to time, new ferries, the franchises of which may be leased in the manner now provided by law.

Plans for water fronts.

§ 819. The plan or plans for the whole or any part of the water front of The City of New York, as constituted by this act, including the water front on the westerly side of the Harlem river from the easterly line of the Third avenue where said line strikes said river along the water front from said line to the northerly side of Eighty-sixth street on the East river determined upon by the department of docks, of The City of New York, as heretofore known and bounded, adopted and certified to by the commissioners of the sinking fund, and filed in the office of said 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 and such plan or plans as may be determined upon pursuant to section eight hundred and seventeen of this act, by the board of docks created by this act, adopted and certified to by the commissioners of the sinking fund and filed, or that may be filed in the office of said board of docks shall be and continue to be the sole plan or plans, according to which any wharf, pier, bulkhead, basin, dock, slip or any wharf structure or superstructure shall be laid out or constructed within the territory or district embraced, or that may hereafter be embraced in and specified upon said plan or plans, and shall be the sole plan or plans and authority for solid filling in the waters surrounding The City of New York, and on said Harlem river, and for extending piers into said waters and erecting bulkheads around said city, and on the westerly side of the Harlem river, and all other provisions of law regulating solid filling and pier and bulkhead lines in said waters, are to be deemed to be repealed whenever said plan or plans is or are inconsistent with such provisions of law and all laws giv-

ing any power or authority as to said water front in the territory embraced in this section, to any other department of The City of New York, as heretofore known and bounded, or to any department of any municipal or public corporation which, or part of which, is consolidated by this act with the mayor, aldermen and commonalty of the city of New York, are hereby repealed. No wharf, pier, bulkhead, basin, dock, slip, exterior street 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 said board 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; and provided, also, that said board of docks may build, or rebuild, or license, or permit the building or rebuilding, of temporary wharf structures, and said board may lease land covered with water belonging to The City of New York for the purpose thereof, such lease, license or permit to continue and remain at the will and pleasure of said board, or for a time not longer than until the wharves, piers, bulkheads, basins, docks, or slips to be built or constructed according to such plan or plans, shall in the judgment of said board, require and need to be built or constructed; and provided, further, that the board of docks with the consent and approval of the commissioners of the sinking fund may alter and extend the present pier head line, as now established on the Hudson river, between Battery place and Seventieth street, and establish a new pier head line between these points, and may authorize the construction of new piers out to said pier head line, and may extend those piers already built out to said line; and may build new piers or extend piers already built, out to such pier head lines as are now or may hereafter be established by the secretary of war under act of congress. The board of docks is hereby authorized and empowered, with the consent and approval of the commissioners of the sinking fund, to alter and amend the plans of the improvement of the water front determined upon by the department of docks, and approved by the commissioners of the sinking fund of the city and county of New York, in eighteen hundred and seventy-one, between the Battery and Grand street on the East river and between the Battery and West Sixty-second street on the North river. Whenever the plan so deter-

mined upon and adopted, or hereafter to be determined upon and adopted, shall include the widening of an exterior street or avenue, or the opening and construction of a new exterior street or exterior avenue, or the abandonment or closing of such street or avenue already in existence, the power to widen, open, construct, abandon or close the same shall exclusively reside with the said board of docks, which is hereby authorized to take such steps as may be necessary in that regard, and after the same shall have been so widened or opened, the right to maintain the widened portion of a street or avenue already opened, and such new street or avenue shall also reside with the said board of docks; but the street or avenue so widened to the extent of the part so widened, or such new street or avenue opened under this plan shall not be a public street, but shall be a marginal wharf, and shall be used in that regard in such manner from time to time as the board of docks shall, by resolution, determine. The board of docks shall have exclusive power to regulate the use of marginal streets so that the land and buildings upon all such marginal streets may be used to the best advantage in connection with the wharves and bulkheads; and the board of docks shall have the power to regulate, by license or by any other suitable means, the transfer of goods and merchandise upon, over or under all such marginal streets; except that the said board of docks shall not, under this section, have any power in respect to, or jurisdiction over, the public driveway authorized by and constructed under chapter one hundred and two of the laws of eighteen hundred and ninety-three and acts amendatory thereof.

Surveys of water front.

§ 820. The board of docks is authorized to cause to be made the necessary surveys, soundings and other examinations of the water front of The City of New York, as constituted by this act, where the same has not already been determined, and to ascertain the capacities and requirements of said water front for adaptation to commercial and other uses.

Construction of piers and docks regulated.

§ 821. In executing the plan or plans mentioned in section eight hundred and nineteen of this act, the board 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 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 board 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 said construction under such plan or plans shall, unless ordered to be otherwise performed by the affirmative vote of all the commissioners of docks, be performed as follows: The said board of docks 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 shall be signed by the bidders for the said work and be sent to the said board within the time specified in such advertisement, accompanied by a bond in the form set forth in said specifications, duly executed. The said board of docks shall open said proposals on a day to be specified in such advertisement, and shall examine them, and unless the said board shall deem it for the interest of the city to reject all bids, 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 of docks on behalf 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 its contract price, until the completion of said work, as security for its performance, and for the forfeiture of said contract for non-performance of the terms thereof. Said board of docks may, upon the forfeiture of any such contract, proceed to complete the work thereunder without contract or may readvertise 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 be approved and accepted by said board of docks, provided, however, that repairs may be done by day's work, and without contract, whenever in the judgment of the board of docks it is expedient so to do and the consent of the board of estimate and apportionment shall have been first obtained.

Purchase of wharf property for corporation; proceedings to acquire.

§ 822. The board of docks, with the approval of the commissioners of the sinking fund, 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 The City of New York, as constituted by this act, 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 The City of New York, and not owned by said corporation; and said board of docks may acquire the same either by purchase or by process of law, as herein provided. Said board of docks 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 the said commissioners approve of such agreement, said board of docks 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 City of New York forever, and said owner shall be paid such price from the city treasury as provided in this act. If the said board of docks shall deem it proper and expedient that the said corporation should acquire possession of such wharf property, rights, terms, easements or privileges, for which no price can be agreed upon between said board and the owner or owners thereof, the said board of docks may direct the corporation counsel of said city to take legal proceedings to acquire the same for the city, and the said corporation counsel 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 the said board of docks is also empowered to acquire in like manner the title to such lands under water and uplands, within The City of New York, as constituted by this act, as shall seem to said board of docks necessary to be taken for the improvement of the water front. And for the purpose of attempting to agree upon a price with the owners of such wharf property, rights, terms, easements, or privileges,

it shall be sufficient for the said board of docks to serve upon the said owners of said wharf property, rights, terms, easements or privileges a copy of the resolution of said board of docks offering a price for the said wharf property, rights, terms, easements or privileges, with notice of the passage of said resolution, by personal or substituted service in the same manner, so far as the same can be made applicable thereto, as is provided for personal or substituted service of a summons in an action by chapter five of the code of civil procedure, unless the supreme court, upon application of said board of docks, shall direct some other and different mode of service. The just compensation to which the owner of property taken under the foregoing provisions is entitled shall be ascertained and determined upon the following principles. If all of the property of such owner is taken, the compensation awarded shall be the fair and just value of the said property. If the property of the riparian proprietor has been built upon or improved, and if such buildings or improvements are upon a single tract contiguous to or adjoining lands under water, or which were originally under water, and used in connection therewith, and part only of such property is proposed to be taken, the fair and just value of the entire premises shall first be ascertained, and then there shall be ascertained the like value of the premises in the condition in which they will be after the part is taken, and the difference in value, be it more or less than the separate value of the part taken, shall constitute the measure of compensation. Provided that said board of docks, with the approval of the commissioners of the sinking fund, hereby is empowered to agree, license and permit private owners of any bulkheads, piers or water rights, to make the necessary improvements upon their bulkheads, piers or water rights, so as to conform to the plan already adopted by the department of docks, and approved by the commissioners of the sinking fund of The City of New York, as heretofore known and bounded, or to be hereafter adopted and approved, pursuant to this chapter, during the period which shall intervene prior to the extinguishment of such private ownerships by The City of New York, such improvements to be made by such owners under the supervision of the board of docks, or by the board of docks itself, as may be agreed upon, at the cost and expense

of such private owners, in the first instance, and upon such reasonable terms as to reimbursing said private owners for such improvements, and as to wharfage and other riparian rights thereon and therefrom, as may be agreed upon. All agreements, and licenses or permits heretofore made or entered into between the mayor, aldermen and commonalty of The City of New York and any private owners, as to the making of like improvements upon their property, are hereby ratified, confirmed and made valid.

Acquirement of certain wharf property on North and East rivers.

§ 823. In all proceedings taken by the board of docks of The City of New York for the acquirement of wharf property, rights, terms, easements, or privileges, or lands under water and uplands in The City of New York, if said wharf property or lands under water, or wharf property to which said rights, terms, easements, or privileges are appurtenant, is or are, situated between the southerly side of Bethune street and the northerly side of Gansevoort street, upon or adjacent to the North river in The City of New York, or between the southerly side of East Eighteenth street and the southerly side of East Twenty-first street, upon or adjacent to the East river, it shall not be necessary for the said board of docks to make any attempt to agree with the owners of any such property, rights, terms, easements, privileges, uplands or lands under water, upon a price for the same, before commencing the proceedings authorized by section eight hundred and twenty-two of this act. In a proceeding brought for the acquirement of any such wharf property, rights, terms, easements, or privileges, or uplands, or lands under water situate, as in this section set forth, the title to the said wharf property, uplands and lands under water, rights, terms, easements, and privileges shall vest in The City of New York four months after the filing in the office of the clerk of the supreme court, in the first judicial district, of the oaths of the commissioners of estimate and assessment in said proceeding appointed, and all of the rights, title and interest of any and all of the owners or persons interested in the said wharf property, rights, terms, easements, and privileges or lands under water, or uplands, shall cease and determine and be extinguished at such time. All the awards made in such proceeding for the value of property ac-

quired or interests extinguished, shall draw interest from the time of the vesting of the title in The City of New York.

Acquirement of wharf property in which city has some interest.

§ 824. In all proceedings by the board of docks of The City of New York, for the acquirement of the interests of any person or corporation who is an owner in common or a joint-tenant with The City of New York, of any wharf property, rights, terms, easements, or privileges, or lands under water and uplands, it shall not be necessary for the said board of docks to make any attempt to agree with said person or corporation who is a tenant in common or joint-tenant as aforesaid with The City of New York, upon a price for the same, before commencing the proceedings authorized by section eight hundred and twenty-two of this act. In a proceeding brought for the acquirement of any such right, title, or interest in or to any such wharf property, rights, terms, easements, or privileges, or uplands, or lands under water, owned as in this section set forth, the title of the person or corporation who, or which is the tenant in common or joint-tenant with The City of New York to the said wharf property, uplands and lands under water, rights, terms, easements, and privileges, shall vest in The City of New York four months after the filing in the office of the clerk of the supreme court, in the first judicial district, of the oaths of the commissioners of estimate and assessment in said proceeding appointed, and all of the rights, title, and interest of, in and to the said owners, persons or corporations interested in said wharf property, rights, terms, easements, privileges, or lands under water or uplands, shall cease, determine and be extinguished at such time. All the awards made in such proceeding for the value of property acquired or interest extinguished shall draw interest from the time of vesting of the title in The City of New York.

Wharfage and dockage charges; leasing property; oyster business; designation of water front for.

§ 825. When any of the wharves, piers, bulkheads, slips, docks, and basins constructed under the provisions of this chapter shall be open to the public use, the board of docks shall, subject to the provisions of law, regulate the charges for wharfage, cranage 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 board of docks 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 board of docks may appropriate any of such wharves, 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 such wharf, pier or slip of said The City of New York, except such as may be so designated for their use respectively. Said board of docks may, in the name and for the benefit of the corporation of The City of New York lease any or all of such property, and any and all wharf property belonging to The City of New York, as constituted by this act, 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. The board of docks may set aside, designate and appropriate a suitable location on the water front in The City of New York, for the sole use of the oyster business. Such designation or appropriation shall be subject at any time to revocation by said board.

Ferries; establishment and leasing of.

§ 826. The board of docks shall have power and is authorized to lease in the name of and for the benefit of The City of New York in the manner provided by law, the franchise of any ferry or ferries belonging to said city 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 but not for a term longer than [ten] twenty-five years, nor for a renewal for a longer term than ten years. And said board shall also possess the power and is hereby authorized to lease, in like manner along with the franchise of a ferry or ferries belonging to 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 or ferries, now owned or possessed, or which may hereafter be owned or acquired by said city or to which the said city is or may become entitled, or of which it may become possessed. But said board shall make no lease authorized by this section, unless the terms of said lease are approved by the commissioners of the sinking fund. The proceeds of said leasing shall on receipt thereof after paying all necessary charges be immediately paid to the credit of the sinking fund. But nothing in this section contained shall be held to apply to that portion of the East river which is, by law, exclusively set apart for the use of canal boats engaged in the transportation of freights in the Hudson river coming to tidewater from the canals of this state. Whenever it may be determined by unanimous votes of all the members of the board of docks and of the commissioners of the sinking fund that the interests of the city will not be best promoted by leasing the franchise of a ferry in the manner hereinbefore directed, it shall be lawful for said board of docks and said commissioners of the sinking fund by resolutions adopted by such unanimous votes, to lease such franchises by private agreement for terms not exceeding twenty-five years and under such conditions as, in their judgment, will best protect and further the interests of the city and the traveling public. Leases of such franchises may in the discretion of the board of docks and the commissioners of the sinking fund provide for the character of transportation service to be furnished by the lessee, including the character and speed of the boats to be used, frequency of trips, rates of fare and commutation and freight charges and may provide for forfeiture of the lease in the event of failure to comply with its provisions in regard thereto.

[To establish] Establishment of rules for government; penalties.

§ 827. The board of aldermen **[docks]** shall, by general ordinances, from time to time, establish **[and enforce]** all needful rules and regulations for the government and proper care of all the property placed in the **[its]** charge of the board of

docks and under its control by the provisions of this chapter, relating thereto. The board of docks [and] shall furnish a copy of such rules and regulations to all the owners and occupants of such property, shall enforce such rules and regulations, and shall make all needful orders necessary to carry out the provisions of this chapter relating thereto into effect, [and fix penalties for disobeying such rules, regulations, or orders,] and shall publish such orders. All rules, regulations or orders of the board of docks which shall be in force in The City of New York on the first day of January, nineteen hundred and two, are hereby continued in full force and effect subject to repeal or modification as in this section provided. The violation of or disobedience to any rule or regulation or any [or] order of said board of docks, 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 such board of docks. The penalties aforesaid may be recovered by suit in the name of The City of New York, and such suit shall be prosecuted by the corporation counsel when directed by the board of docks, and no defendant in any suit shall be permitted to plead ignorance of any such order, rule or regulation. All rents, fines and penalties, and all other money collected by said board or by its direction, shall [belong to the treasurer of said city, and] be paid into the sinking fund for the redemption of the city debt. The board of docks shall hold stated meetings, at times to be specified in its by-laws, which said board shall prepare and may alter from time to time.

Offices and officers; duties and salaries.

§ 828. The board of docks shall have power to furnish and supply offices, provided in accordance with law, for the transaction of the business of the department of docks and ferries. The board of docks shall appoint a secretary and other officers, clerks and agents to assist said board in the performance of its duties and the exercise of its powers; and also the necessary employees for the work of construction, repairs and maintenance. [; and shall 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, except with the consent of the commissioners of the sinking fund. The president of the board of docks 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. If any member of said board of docks shall cease to reside in The City of New York, as constituted by this act, his office as a member of said board shall become vacant.

Annual report; contents.

§ 829. The board of docks shall annually present to the mayor of the city a report containing: First. The name, occupation, and compensation of all officers, clerks and agents appointed and employed by said board. Second. A statement of the actions of the board of docks for the past year, classified with reference to the various subjects and duties which have engaged its attention. Third. A list of the orders and rules made by said board of docks, and a description of the contracts made by said board, the payments made by said board, and the purposes and amounts thereof, and the leases made by said board, for what term, at what rent, to whom, and for what property. Said board of docks shall at the time it presents its said annual report to the mayor also file with the civil service supervisory and examining boards of The City of New York a complete statement of the name, address and salary, or compensation of all persons employed in any capacity by said board of docks, which shall be published in the City Record. [and the corporation newspapers.]

Seal.

§ 830. The board of docks may adopt a common seal for said department of docks and ferries, and direct its use. Said seal shall be a device of the arms of The City of New York surrounded by the words, "Department of Docks and Ferries. The City of New York," engraved upon a metal disk two and one-quarter inches in diameter, and the same may be renewed whenever necessary. An impression of such seal made directly on paper shall be as valid as if made on a wafer or on wax.

Every lease, contract or other instrument, executed in pursuance of any authority conferred on said board of docks by law, and sealed with such seal, attested and proved according to law by the secretary appointed by said board, shall be received in evidence, and may be recorded in the proper recording offices in the same manner and with the like effect as if sealed with the seal of the corporation of The City of New York, attested and proved by the clerk thereof.

Lands under water owned by state.

§ 831. 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, which the board of docks may deem necessary for the construction of wharves, docks, piers, bulkheads, basins, and slips, under this chapter, whenever said commissioners may be required by said board of docks to make such conveyance to The City of New York. But such conveyance shall be made after compliance with such reasonable rules and regulations as the said commissioners of the land office are now empowered to make by law; and nothing in this chapter shall be so construed as to remove or limit the powers and duties of the said commissioners as now conferred upon them by the statutes of the state and as prescribed in other sections and provisions of this act.

May deepen water adjoining wharf, etc.

§ 832. It shall be lawful for the board 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 City of New York, 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 board may deem necessary and proper.

Property and wharf property defined.

§ 833. The terms "property" and "wharf property" whenever used in this chapter, 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 appurtenant thereto, and such upland or made land adjacent

to the said wharves, piers, docks, bulkheads, slips and basins, jurisdiction over which said upland and made land may be assigned to the department of docks and ferries by the commissioners of the sinking fund.

Sites for floating baths.

§ 834. The board of docks shall, upon the requisition of the respective borough presidents, [commissioner of public buildings, lighting and supplies,] furnish free of charge in the vicinity of such locations [location] as shall be designated by such presidents respectively [said commissioner] accessible, convenient, and safe berths for mooring the free floating baths, authorized by law.

Public markets and wharves.

§ 835. It shall be lawful for The City of New York, in case it 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 its 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.

Docks to be set apart for street cleaning department and board of health.

§ 836. The board of docks shall designate and set apart for the use of the department of street cleaning, the board of health, and other city departments, suitable and sufficient wharves, piers, bulkheads, slips and berths in slips for the use of said departments.

Setting apart piers for recreation.

§ 837. The board of docks is hereby authorized to set apart the following piers in The City of New York, to wit: A pier at or near the foot of Perry street, on the Hudson river, and such other piers along the Hudson river water front and the East river water front of the said city, as the said board of docks shall deem, from time to time, necessary for the use of the inhabitants of The City of New York, as hereinafter provided, and for the convenience of dealers in country produce and other merchandise transported to The City of New York

for sale. The purpose of this section is to afford the inhabitants of The City of New York greater opportunity for healthful recreation than they now possess, and to accomplish such end the said board of docks is hereby authorized to construct or rebuild the piers set apart under the provisions of this section for public use in such manner as shall provide a platform or upper story thereof, and the approaches thereto shall be constructed under the direction of a skilled architect, who shall be employed by said board of docks for that purpose. The intention hereof being to permit the upper story of each one of the piers herein authorized to be set apart for public use wholly free to the inhabitants of said city for the purpose aforesaid without interference with business occupations, and the said piers on the lower stories thereof shall be open to use to boats and vessels plying upon canals, rivers and lakes of this state which may bring merchandise to the city for sale therein. The occupation of positions by boats at the piers herein mentioned shall be under the control of the board of docks, and order shall be maintained by the police authorities of The City of New York in and around such portions of the said docks as may be set apart for recreation purposes aforesaid. Except as hereinbefore provided, no wharf, pier, bulkhead or shed shall be required by the board of docks to be so constructed as to admit of the free public use of the roof thereof for the purposes of resort and recreation.

Water front to be set apart for use of fire department.

§ 838. The board of docks, with the consent and approval of the commissioners of the sinking fund, is hereby authorized to set apart, for the permanent and exclusive use of the fire department of The City of New York, so much of the water front owned by said city as shall be deemed necessary for the exclusive use of the said fire department of The City of New York.

TITLE 2.

Piers, Slips and Wharfage.

Sheds for protection of property upon piers or bulkheads; construction of the same regulated by board of docks.

§ 844. Whenever any person, company or corporation, engaged in the business of steam transportation, shall be 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 board of docks, in said city, license or authority to erect or maintain the same, and subject to the conditions and restrictions contained in such license or authority; but when such license or authority has been granted and has been acted upon, it shall not be revoked by said board without the consent in writing of the mayor and of the commissioners of the sinking fund, after due hearing of such licensee. All sheds or structures erected or maintained upon any wharf or pier in The City of New York, as heretofore known and bounded, under any license or permit heretofore granted by the department of docks of said city, or hereafter erected or maintained upon any wharf or pier in The City of New York, under any license or permit granted by the board of docks of said city, are declared to be lawful structures, subject to the terms and conditions of the license or permit authorizing the same. Such sheds hereafter shall be constructed subject to the regulations and under the authority of the board of docks. Any such owner or lessee of a pier, or of a pier or bulkhead, or a part thereof, in respect to which the board 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. The board of docks shall have power to build the above structures on any wharf or bulkhead belonging to The City of New York, and shall have power to lease the same; and any lessee thereof shall have all the rights and privileges above granted. Provided that all sheds or structures lawfully erected or maintained at the time this act takes effect upon any wharf or pier in any part of the territory embraced within The City of New York, as constituted by this act, are hereby declared to be lawful structures.

Wharves, slips, etc., not to be used as dumping grounds.

§ 845. It shall not be lawful 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 draught of more than eighteen feet of water.

Storehouses, booths, shops, etc., on sheds not authorized.

§ 846. Nothing in the two preceding sections contained shall be construed to authorize the erection or maintenance 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 board of docks, except as provided by said section.

Offices abolished.

§ 847. The offices of captain of the port of New York and of harbor masters of the port of New York are hereby abolished. The dock masters, appointed by the board of docks of The City of New York, as constituted by this act, shall be vested with all the powers and shall perform all the duties conferred or imposed upon the dock masters appointed by the commissioners of docks of The City of New York, as heretofore known and bounded, by chapter one hundred and ninety-nine of the laws of eighteen hundred and eighty-eight and the acts amendatory thereof, and supplementary thereto.

Dock masters; certain powers of.

§ 848. The dock masters appointed by the board of docks of The City of New York shall be vested with all the powers and perform all the duties conferred on or imposed upon the harbor masters of the port of New York by a certain act, entitled, "An act to provide for the appointment of a captain of the port of New York, and harbor masters of the port of New York, and defining and regulating the powers and duties and compensation of said officers, and repealing chapter four hundred and eighty-seven of the laws of eighteen hundred and sixty-two," passed May fourth, eighteen hundred and eighty-three, and known as chapter three hundred and fifty-seven of

the laws of eighteen hundred and eighty-three. Nothing in this section contained shall entitle the said dock masters to any additional compensation for performing the duties and exercising the powers hereby imposed and conferred. Each of said dock masters shall personally perform the duties assigned to him by the board of docks. He shall not appoint any deputy, or assistant, or delegate the powers of his office to any person or persons whatever. He shall not collect any fees except such as are now or may be authorized by law, and which shall be specified by the board of docks. He shall not take or receive, directly or indirectly, any money, or thing of value, or compensation for his services, or on account of the exercise of his powers of office, except as now provided, or which may hereafter be provided, by law and the regulations of the board of docks. Any dock master violating any of the provisions of this section shall, upon conviction thereof by any court of record, be punished by a fine of five hundred dollars, and in addition thereto may, in the discretion of the court, be imprisoned in the county jail for a term not exceeding thirty days.

Removal of obstructions, etc., from piers, etc.

§ 849. 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 board of docks is hereby authorized 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 board 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 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, however, 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.

Expense of carrying out last section.

§ 850. Whenever the board of docks 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 board of docks 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 board of docks, 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 applicable, shall apply to the liens hereby created; and the said board 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.

Removal of obstructions, continued.

§ 851. Whenever any pier or bulkhead or marginal street, wharf or place in The City of New York, shall be incumbered, or its free use interfered with by merchandise, lumber, trucks, wagons or any other obstruction, whether of loose materials or built upon or affixed to the pier or bulkhead or marginal street, wharf or place without authority of law, it shall be the duty of the board of docks to notify the person or persons placing or keeping such merchandise or other obstructions on such pier or bulkhead or marginal street, wharf or place, to remove such merchandise or other obstructions 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 board of docks the sum of twenty-five dollars for each and every day during which such merchandise or obstruction shall remain on such pier or bulkhead or marginal street, wharf or place. And the board of docks shall have power, in its discretion, to remove any merchandise, lumber, trucks, wagons or any other obstruction so incumbering any pier or bulkhead, or marginal street, wharf or place, 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 board of docks, and shall be a lien on such merchandise until paid.

Storage of obstructions.

§ 852. 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 board of docks, 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.

Unclaimed merchandise to be advertised.

§ 853. At the expiration of every six months it shall be the duty of said board of docks to advertise, for one week in the City Record [and the corporation newspapers] the merchandise, lumber, trucks, wagons or other obstruction which they have stored and which has remained unclaimed, setting forth the marks and numbers of each package, or parcel, the description of the merchandise, or material, the pier whence such merchandise was removed, and the date of such removal, and if any of such merchandise or material so advertised shall remain thereafter unclaimed for three months, said board of docks may then sell the same, after further advertisement for one week in the City Record [and the corporation newspapers], at public auction, to the highest bidder, to pay the expenses which have been incurred on such merchandise, lumber, trucks, wagons or other obstruction, and the remainder shall be held in trust by the said board for the owner or owners thereof, for

twelve months, when, if not claimed, it shall be paid over to the commissioners of the sinking fund.

Canal boats; territory appropriated to.

§ 854. All that part of the water adjacent to the wharves of The City of New York, as heretofore known and bounded, from the west side of pier number three, to and including the east side of pier number eight, 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 part 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 board of docks and of all officers who now are or hereafter shall be empowered by law, or by any ordinance of The City of New York, as constituted by this act, 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 board of docks, 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.

Derricks for unloading canal boats authorized.

§ 855. 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 and 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.

Occupation of waters by ships not entitled thereto.

§ 856. 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 said board of docks, 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 as far as may be necessary to accommodate such canal boat or barge. If the said board of docks to which such request is made shall neglect or refuse to comply with the same, the members thereof shall, for each such neglect, or refusal, jointly 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 proprietor or proprietors, for his or their use and benefit in any court of competent jurisdiction.

Failure to remove when ordered; penalty.

§ 857. Any person in command or in charge of any ship or vessel which the board of docks 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 board 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 said board of docks in any court of competent jurisdiction.

Certain docks and piers set apart for garden produce.

§ 858. The docks, piers and bulkheads on the Hudson river from Gansevoort street to Little West Twelfth street, shall be set apart by the board 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, and said board of docks, or other department, having control of said docks, piers and bulkheads may, from time to time, when said docks, piers or bulkheads are not in actual use for the purpose above mentioned, allow the same to be used for other and additional purposes, and they are hereby authorized and empowered at any such time to designate and appropriate any or all of said docks, piers or bulkheads for any public or general use, and such designation or appropriation shall be subject at any time to revocation by said board or department making the same.

Wharfage and dockage rates enumerated.

§ 859. 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 burden, 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 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; and 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 hundred 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 one-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 said wharves; 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 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 of the first above rates; and from every vessel or floating structure, other than those above named, or used for transportation of freight or passengers, 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.

Id.; on vessels in clam or oyster trade.

§ 860. 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 The City of New York, 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. The board of docks may grant permits for vessels or floating structures engaged in the oyster business, and used for the receipt, preparation and opening of oysters and other shell-fish to remain continuously moored to or at any of the docks, piers and bulkheads within The City of New York, not otherwise specifically appropriated by law to the sole use of other kinds of commerce, upon such terms as to wharfage and otherwise, and subject to such regulations as said board may prescribe. All permits so granted by such board shall be subject at any time to revocation by it. Upon any such permit being granted the person or persons, or corporation receiving the same, shall be entitled to moor such vessels or floating structures, continuously and until such permit shall be revoked, to or at the dock, pier or bulkhead designated in such permit for that purpose subject to the terms of such permit; provided, however, that where The City of New York is not the owner of the dock, pier or bulkhead designated in such permit, the consent of the owner or owners of the same, or of the person or persons entitled to collect wharfage therefrom, shall have been obtained.

Id.; canal boats and vessels carrying brick.

§ 861. Every canal boat and every vessel engaged in freight-ing 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 boats or vessels 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; preceding section, shall be taken and construed to mean twenty-four hours.

Rates for goods, etc., remaining on pier or wharf.

§ 862. 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 pier, wharf, or bulkhead, and the same shall be a lien thereon.

and the word "day," whenever it occurs in this and the last

Rates to be printed in wharfage bills.

§ 863. It shall be the duty of every person owning or having charge of any pier, wharf, bulkhead, or slip in The City of New York, to cause to be printed on the backs of all bills, presented by them for wharfage, section eight hundred and fifty-nine 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.

What waters included in port of New York.

§ 864. The port of New York, wherever the same is mentioned or referred to in this chapter, shall be deemed and taken

to include, unless otherwise expressly stated, all the waters of the North river and East river and the harbor, embraced within or adjacent to or opposite to the shores of The City of New York, as constituted by this act.

Additional accommodations for canal boats.

§ 865. The board of docks 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.

Penalty for vessels wrongfully entering canal boat territory.

§ 866. 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 board of docks 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 said board, 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 said board of docks, according to the provisions of the laws of this state concerning attachments against vessels.

Powers of dock masters to assign and regulate stations for vessels; penalty for refusing to obey direction.

§ 867. Each dock master appointed by the board of docks 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 and 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 a dock master, or shall resist or forcibly oppose said officer in the discharge of his duties, such master or persons so refusing, neglecting, resisting or opposing, shall, for every offense, forfeit and pay the sum of fifty dollars to be recovered with costs of suit, by and in the name of the board of docks before any court having cognizance thereof.

False personation of dock masters.

§ 868. Any person who shall falsely represent himself to be a dock master, or wrongfully perform the duties of dock 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.

Violations to be reported.

§ 869. It shall be the duty of the dock masters appointed by the board of docks to report to said board all violations of any of the provisions of this chapter, and of the rules and regulations of the board of docks which may come to the knowledge of said dock masters, or which may be known to them by complaint or otherwise.

Floating docks authorized.

§ 870. 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 authority established by this act to regulate by ordinance the use of the slips, piers and wharves of The City of New York.

TITLE 3.

General Provisions.

Grants of land under water restricted.

§ 876. No grants of land under water shall be made by the [municipal assembly] board of aldermen of The City of New York, or by any officer, board, or department thereof, beyond the exterior lines of The City of New York, as fixed by an act of the legislature, passed April seventeenth, eighteen hundred and fifty-seven, entitled "An act to establish bulkhead and pier lines for the port of New York," as amended by subsequent act, unless as expressly authorized by acts passed subsequent thereto.

Time for improving lands adjacent to water on Harlem river.

§ 877. 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 county of New York, and one in the office of the secretary of state at Albany.

Dumping snow and ice from piers.

§ 878. It shall be lawful for the commissioner of street cleaning to cause to be dumped, or authorize to be dumped, snow and ice between the piers near their inshore ends, into the waters of the East and North or Hudson rivers.

Injuries to vessels lying at exterior end of wharf.

§ 879. It shall not be lawful for any vessel, canal boat, barge, lighter or tug to obstruct the waters of the harbor by lying at the exterior end of wharves in the waters of the North or East river, except at their own risk of injury from vessels entering or leaving any adjacent dock or pier; any vessel, canal boat, barge, lighter or tug so lying shall not be entitled to claim or demand damages for any injury caused by any vessel entering or leaving any adjacent pier.

Certain substances not to be dumped in port of New York.

§ 880. The placing, discharging or depositing, by any process or in any manner, of refuse, dirt, ashes, cinders, mud, sand, dredgings, sludge acid, or any other refuse matter, floatable or otherwise, in the tidal waters of the port of New York as defined by this act, except under permit of the United States supervisor of the harbor, is hereby strictly forbidden, and every person violating the foregoing provisions shall be deemed guilty of a misdemeanor, and on conviction thereof shall be punished by a fine of not more than two hundred and fifty dollars nor less than five dollars, or imprisonment for not more than six months nor less than ten days, one-half of said fine to be paid to the person or persons giving information which shall lead to the conviction of such misdemeanor.

Scows to receive ashes, etc., from steam tugs and vessels.

§ 881. The various scows employed by The City of New York, or by the contractors for removing 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 or rubbish from any steam tug or vessel in the harbor, and in addition to the foregoing provisions two or more scows shall be located at such points within the harbor as the supervisor of the harbor may direct for the special use of boats and vessels wishing to discharge ashes or rubbish.

CHAPTER XVII.

TAXES AND ASSESSMENTS.

- Title 1. Department of taxes and assessments; powers and duties.
- Title 2. Assessments for local improvements other than those confirmed by a court of record.
- Title 3. Vacating and modifying assessments for local improvements other than those confirmed by a court of record.
- Title 4. Opening streets and parks.
- Title 5. Sales of land for taxes, assessments and water rates.

TITLE I.

Department of Taxes and Assessments, Powers and Duties.

One of the departments of the city.

§ 884. The department of taxes and assessments shall be one of the departments in said city.

Department, how composed; terms and salaries.

§ 885. 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 designated in his appointment, and four other persons, one of whom at least shall be a person learned in the law, who shall be called commissioners of taxes and assessments. [The president, unless sooner removed, shall hold his office for the term of six years and until his successor shall be appointed and has qualified. The other commissioners shall, unless sooner removed, hold their respective offices for the term of four years, and until their successors shall be appointed and have qualified. The commissioners first appointed under this act shall hold office by designation of the mayor for terms of one, two, three and four years, respectively. The commissioners thereafter ap-

pointed shall hold office for the term of four years.】 The salary of the president shall be eight thousand dollars a year, and the salary of each of the other commissioners seven thousand dollars a year.

Devolution of power.

§ 886. All of the rights, powers and duties heretofore devolved by law upon the board of taxes and assessments in The City of New York, upon the department of assessments of the city of Brooklyn, and upon like departments, boards or officers of taxes and assessments other than for street improvements in the other municipal and public corporations or parts of municipal and public corporations consolidated by this act with the municipal corporation known as the mayor, aldermen and commonalty of the city of New York are hereby devolved, unless otherwise herein expressly provided, upon and vested in the board of taxes and assessments in The City of New York.

Deputy tax commissioners; how appointed; their duties [term of office and salary.]

§ 887. The board of taxes and assessments shall appoint persons to be known as deputy tax commissioners, not exceeding forty in number, who shall perform, under the direction and supervision of the board of taxes and assessments, such duties as the said board shall prescribe. The said board shall give such directions to the deputy tax commissioners as it shall think expedient to secure in all the boroughs and parts of the city equality of valuations of property for the purposes of taxation. 【Such deputy tax commissioners shall hold their office during the pleasure of the said board of taxes and assessments, and shall be subject to removal by the said board as deputies in the other city departments.】 The number of deputy tax commissioners above prescribed may from time to time be increased by the appointment of the board of taxes and assessments, provided such increase is authorized by the board of estimate and apportionment. 【The salary of each of said deputy tax commissioner shall be fixed by the board of taxes and assessments.】

Appointment of deputy tax commissioners among the boroughs.

§ 888. In making the appointments of the deputy tax commissioners the head of the department of taxes and assessments shall apportion such appointments as nearly as may be, among

persons residing in the several boroughs created by this act, according to the population of the several boroughs; and [the persons performing similar duties in the several boroughs, when this act takes effect, shall, so far as the board shall deem then fit and competent, be preferred for the said appointments first to be made hereunder.] after the first day of January, nineteen hundred and two, no person shall be appointed to the office of deputy tax commissioner unless he shall be at the time he is appointed and shall have been for at least one year prior thereto an elector and freeholder in the borough from which he is appointed. No deputy tax commissioner shall be assigned to assess property in any other borough than that from which he is appointed, except by the unanimous vote of all the members of the board of taxes and assessments, and in that case the reasons for such assignment shall be stated in the minutes of the board.

Deputy tax commissioners; duties of in assessing taxable property.

§ 889. It shall be the duty of the deputy tax commissioners, under the direction of the board 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 board, and they shall furnish to the said board, 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, lot, ward, town and 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 said property under ordinary circumstances would sell), with such other information in detail relative to personal property or otherwise, as the said board may, from time to time require. Such deputies shall commence to assess real and personal estate on the first Tuesday of September in each and every year.

Offices of the department in the boroughs.

§ 890. There shall be an office of the department of taxes and assessments in the borough of Brooklyn, a like office of the department in the borough of Queens, a like office of the department in the borough of Richmond, and a like office of the department in the borough of The Bronx; at which the

duties of the department of taxes and assessments pertaining to the assessment of property in the said several boroughs shall, under the direction of the board of taxes and assessments, be performed by such number of the deputy tax commissioners or other employees of the department of taxes and assessments as the said department may decide to be necessary and assign to such duties. Such offices shall in law be a part of the main office, and the main office of the department of taxes and assessments shall be maintained in the borough of Manhattan. The books, maps, assessment-rolls, files and records pertaining to the department of taxes and assessments of the municipality heretofore designated as the mayor, aldermen and commonalty of the city of New York, of the department of assessment of the city of Brooklyn and of each and every of the like offices in any of the municipal and public corporations, or parts of municipal and public corporations consolidated by this act with the municipal corporation of the mayor, aldermen and commonalty of the city of New York, shall be delivered into and thereafter be in the custody and control of the department of taxes and assessments hereby constituted, to be kept in such of the offices of the said department as may be most convenient to the taxpayers and suitable to the proper discharge of the business of such department, and shall be public records, and at all reasonable times open to public inspection.

Surveyor.

§ 891. The said department of taxes and assessments shall appoint a surveyor from one of the city surveyors, whose duty it shall be to make necessary surveys and corrections of the ward maps, and also to make all new maps which may be required for the more accurate assessment of real estate within the territory consolidated by this act with the municipal corporation known as the mayor, aldermen and commonalty of the city of New York. He shall hold his office at the pleasure of the department of taxes and assessments, and may have such assistants as the said department may decide to be necessary and provide.

Annual record of assessed valuation; what to contain and when to be open for examination and correction.

§ 892. There shall be kept in the several offices established by the department of taxes and assessments books to be

called "the annual record of the assessed valuation of real and personal estate of the borough of _____," in which shall be entered in detail the assessed valuations of such property within the limits of the several boroughs of The City of New York as established by this act, which said books shall be open for public inspection, examination and correction from the second Monday in January until the first **【Monday】** day of **【May】** April in each year; but on said last mentioned day the same shall be closed to enable the board of taxes and assessments to prepare assessment-rolls of the several boroughs for delivery to the **【municipal assembly】** board of aldermen. The said board previous to and during the time the said books are open as aforesaid for inspection shall advertise the fact in the City Record, **【and in the corporation newspapers】** and in such other newspaper or newspapers published in the several boroughs created by this act as may be authorized by the board of city record. **【provided, however, that for the year eighteen hundred and ninety-eight it shall be sufficient if said books be kept open from the first Monday of February to the first day of May of that year.】**

Annual record of assessed valuation of real and personal estate of corporations to be kept in main office.

§ 893. The department of taxes and assessments shall cause to be prepared and kept in the main office of the department of taxes and assessments, books to be called "The annual record of the assessed valuations of real and personal estate of corporations," and it shall be the duty of the deputy tax commissioners in the several districts in the several boroughs which may be assigned to them for that purpose by the board of taxes and assessments, to furnish to the department of taxes and assessments, under oath at their main office, at the time that such statement is filed in any office of the department of taxes and assessments in any borough other than in the main office in the borough of Manhattan, a duplicate detailed statement of the assessable property of corporations, both real and personal, which said statements of said deputy tax commissioners shall be entered upon the books to be kept in the main office of the department of taxes and assessments, to be known as the "Annual record of the assessed valuation of real and personal estate of corporations."

Assessed valuation of personal property; how to be entered.

§ 894. The assessed valuation of all personal property shall be entered by said deputy tax commissioners, or by such other persons as may be assigned to that duty by the department of taxes and assessments in its several offices, in books or rolls, in alphabetical order, of the names of persons and corporations subject to taxation. No tax or assessment shall be void by reason of the name of the rightful owner or owners, whether individuals or corporations, of real estate in any of the said boroughs not being inscribed in the assessment rolls or lists; but in such case no tax shall be collected except from the real estate so assessed. The assessed valuation of all real and personal property of corporations shall be entered in duplicate in the office in the borough where the same is assessed and in the main office of the department of taxes and assessments in the borough of Manhattan. If, at any time prior to the first day of May in any year, it shall appear to the tax commissioners that a person assessed for taxation on personal estate on the books or rolls of one borough should have been assessed therefor on the books or rolls of another borough, they shall forthwith cause the assessment to be cancelled and a new assessment to be made on the proper books or rolls, and within five days thereafter shall cause written notice of the new assessment to be mailed to such person at his last known residence or business address within The City of New York, and an affidavit of the mailing of such notice to be filed in the main office. The person so notified may apply for correction of such assessment on or before the twentieth day of May, with the same force and effect as if such application were made on or before the [thirtieth] thirty-first day of [April] March in any year.

Applications for correction of assessment.

§ 895. During the time that books shall be open to public inspection as aforesaid application may be made by any person or corporation claiming to be aggrieved by the assessed valuation of 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. The board of taxes and assessments shall examine into the complaint, as herein provided, 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 a commissioner of taxes and assessments or a deputy tax commissioner, as herein provided, who are hereby authorized to administer such oath, and if the assessment as hereinafter provided be determined by the board of taxes and assessments to be erroneous, it shall cause the same to be corrected and fix the amount of such assessment as the board of taxes and assessments may believe to be just, and declare its decision upon such application within the time and in the manner hereinafter provided. But the commissioners of taxes and assessments may, during the ~~month~~ months of April and May in any year, act upon applications, examine applicants under oath and take other testimony thereon, for the reduction of assessments upon either real or personal property filed in their offices on or before the ~~thirtieth~~ thirty-first day of ~~April~~ March preceding, and cause the amount of any assessment as corrected by the board of taxes and assessments to be entered upon the assessment rolls for the year in which such correction may be made.

When assessed valuation may be increased or diminished.

§ 896. The board of taxes and assessments may increase at any time before the first of ~~May~~ April in each year, or may diminish at any time before the closing of the books of "annual record" on the first day of ~~May~~ April in each year, the assessed valuation of any real or personal estate of any individual or corporation, as in its judgment may be just or necessary for the equalization of taxation; but it shall not increase such valuations of the property of any individual or corporation after said books are opened for correction and review, except upon notice given to the individual or corporation affected by such increase at least ten days before the fifteenth day of ~~May~~ April in each year.

Power of the board to remit or reduce a tax.

§ 897. The board of taxes and assessments is hereby invested with power to remit where in the opinion of the corporation counsel lawful cause therefor is shown. It may reduce if found excessive, a tax imposed upon real or personal property. It shall require a majority of the commissioners of taxes and

assessments to remit or reduce the assessed valuation of personal property, and no tax on personal property shall be remitted, cancelled or reduced unless the person aggrieved shall satisfy the board of taxes and assessments that illness or absence from the city had prevented the filing of the complaint or making the application to the said board within the time allowed by law for the correction of taxes. Any remission or reduction of taxes upon the real estate of individuals or corporations must be made within six months after the delivery of the books to the receiver of taxes for the collection of such tax.

Applications for revision and cancellation of assessment in the several boroughs; when and how made.

§ 898. The board of taxes and assessments from the whole number of persons appointed as deputy tax commissioners shall for each of the boroughs wherein one of the offices of the department of taxes and assessments is established and maintained designate one or more deputy tax commissioners, who shall, between the second Monday of January in each year and the first day of ~~May~~ April following, receive applications for the revision and cancellation of any assessments entered in the books of annual record of the assessed valuation of real and personal estate in that borough, take testimony on such applications and reduce the same to writing, and when so reduced to writing transmit such applications and testimony, with his recommendation, to the board of taxes and assessments at their main office, in the borough of Manhattan, or to any office of the department of taxes in any borough as the board of taxes and assessments may prescribe. Such deputy tax commissioners as may be designated for the purposes and as prescribed in this section, are hereby authorized between the second Monday of January and the first day of ~~May~~ April to administer oaths for the purpose of taking testimony upon all applications for the revision or cancellation of assessments, and they are hereby required and directed to transmit the evidence so taken and reduced to writing, within ten days after the evidence upon any application is taken, with their recommendation, as hereinbefore described. The board of taxes and assessments shall hear at their main office all applications of corporations for revision and cancellation of assessments; and as to all other applications, the said board may

prescribe the time and place of hearing thereof in the several boroughs and give such public notice thereof in the City Record and in at least one newspaper in each borough as they may designate, and the board may make such rules and regulations as may be appropriate and expedient to the end that the taxpayers of each borough other than corporations, may have a hearing in the borough in which they reside or in which their property assessed is situated. All testimony taken by the board of taxes and assessments by any commissioner or by deputy tax commissioners as herein prescribed, shall be reduced to writing and shall constitute part of the record of the proceedings upon any assessment. The decision of the board of taxes and assessments, upon any application for the revision, reduction or cancellation of any assessment and upon the evidence taken thereunder, shall, where the evidence is taken by the board of taxes and assessments be rendered within thirty days after the hearing upon such application is closed, and in no case later than the first day of June. And where the evidence upon any application is taken by any commissioner or a deputy tax commissioner, the determination of the board of taxes and assessments shall be rendered within thirty days after the application and the testimony thereunder shall have been filed with the board of taxes and assessments, at the main office of the department in the borough of Manhattan, and in no case later than the first day of June.

Deputy tax commissioners to make up aggregate amount of assessed valuation in the boroughs.

§ 899. It is hereby declared to be the duty of the deputy tax commissioners, or of such other persons as may have been assigned to the charge and direction of any one of the offices of the department of taxes and assessments in the several boroughs, to compute from the annual record of the assessed valuations of real and personal estate in each of the said several offices, the total aggregate amount of the assessed valuation of real and personal property appearing on said books for each of the said boroughs on the second Monday of January in any year, and to transmit a statement of such aggregate amounts of assessed valuations of real and personal property in the said several boroughs to the department of taxes and assessments at their main office in the borough of Manhattan on or before the second Monday of

January in each year. The board of taxes and assessments are hereby invested with the power and charged with the duty before opening the books for the public inspection as herein prescribed, to fix such valuations of property for the purposes of taxation throughout The City of New York at such sums as will, in their judgment, establish a just and equal relation between the valuations of property in each borough and throughout the entire city. To this end the board of taxes and assessments is authorized to require the deputy tax commissioners to transmit a report to them of the assessed valuation of real and personal property in the several boroughs at such time prior to the second Monday of January in each year as the board of taxes and assessments may prescribe.

Comptroller to submit to [municipal assembly] board of aldermen—a statement showing the amounts necessary to be raised.

§ 900. It shall be the duty of the comptroller of said city to prepare and submit to the [municipal assembly] board of aldermen, at least four weeks before its 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, as hereby constituted, or for city purposes within said city as created by this act, and purposes for which said city is liable, and on account of the counties of New York, Kings, Queens and Richmond, 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 funds, including surplus revenue from the sinking funds of the mayor, aldermen and commonalty of the city of New York and of any of the municipal and public corporations, or parts of municipal and public corporations, by this act consolidated with the municipal corporation known as the mayor, aldermen and commonalty of the city of New York, other than the surplus of revenues of any such sinking funds for the payment of interest on the city debt of the municipal corporation known as the mayor, aldermen and commonalty of the city of New York, or the like debts of the municipal and public corporations by this act consolidated as aforesaid, and the said [municipal

assembly] board of aldermen is 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 such aggregate amount after making such deductions.

How county charges and expenses in New York, Kings, Queens and Richmond counties [and that part of Queens county within the city] are to be paid.

§ 902. In the statement submitted by the comptroller to the [municipal assembly] board of aldermen, as above provided in this chapter, he shall each year include and state specifically the sum or sums necessary to be raised to pay during the current year the salaries of the county officers and the other county charges and expenses in the counties of New York, Kings, Queens and Richmond, respectively, [and the sum or sums which should be paid for like purposes by that part of Queens county included within the city] and the [municipal assembly] board of aldermen is hereby authorized and directed to levy upon and collect from the taxable property within each of said counties, [and part of county,] respectively, the sum or sums so necessary to be raised to pay the salaries of county officers and other county charges and expenses of such county [or part of county]; to the end that each of said counties [and said part of Queens county] shall ultimately bear and pay all expenses necessary to be incurred within the county [or part of county] for county as distinguished from city purposes.

Permits for buildings, etc.; copies to be sent to the department of taxes and assessments.

§ 903. Whenever any permit shall be granted by the proper officer of the city government as created by this act for the erection of any building, pier or bulkhead within said city, a copy of such permit shall be within five days after its issue furnished by the officer granting the same to the department of taxes and assessments.

Exemptions.

§ 904. The exemption from taxation of every building for public worship, and every schoolhouse or other seminary of

learning under the provisions of section four of the tax law, being chapter nine hundred and eight of the laws of eighteen hundred and ninety-six, shall not apply to any such building or premises within the limits of The City of New York, as defined by this act, unless the same shall be exclusively used for such purpose, and be exclusively the property of a religious society.

Exemptions, continued.

§ 905. Nothing in this chapter shall affect any existing and valid exemptions from taxation heretofore created by law respecting any property, real or personal, within the limits of The City of New York, as constituted by this act.

Certiorari to review final determination of the department.

§ 906. A certiorari to review or correct on the merits any final determination of the board of taxes and assessments shall be allowed by the supreme court or any justice thereof, directed to the commissioners of taxes and assessments on the verified petition of the party aggrieved, but only on the grounds which must be specified in such petition, that the assessment is illegal, and giving the particulars of the alleged illegality, or is erroneous by reason of over valuation, or in case of real estate, that the same is erroneous by reason of inequality, in that the assessment has been made at a higher proportionate valuation than the assessment of other real estate of like character in the same ward or section or other real estate on the tax-rolls of the city for the same year, specifying the instances in which such inequality exists, and the extent thereof, and stating that he is or will be injured thereby. Such certiorari and all proceedings thereunder may be had and taken in the judicial district where such real estate is situated, and may be begun at any time before the first day of November in the year in which the determination sought to be reviewed or corrected has been made.

When assessment-rolls to be made and delivered to the [municipal assembly] board of aldermen.

§ 907. Beginning with the first day of [May] April in each year the board of taxes and assessments shall cause to be prepared from the books of annual record of assessed valuations of real and personal estate in the several offices of the department of taxes and assessments in the several boroughs, assessment-rolls for each of said several boroughs, and shall, as soon as such rolls are completed, annex to each of said rolls their certificates that the same is correct in accordance with the entries in said several books of record. The rolls so certified must, on the first Monday of July in each year be delivered by the board of taxes and assessments to the [municipal assembly] board of aldermen, which shall meet at noon on that day at the city hall, or usual place of meeting, in the borough of Manhattan, for the purpose of receiving the same, and for the purpose of performing such other duties in relation thereto as are prescribed by law; except that whenever said first Monday in July shall fall on a legal holiday, said rolls shall be delivered by said board of taxes and assessments on the next succeeding day thereafter to the [municipal assembly] board of aldermen, which shall meet at noon on such next succeeding day, at the place and in the manner and for the purposes hereinafter specified. In the event of the board of aldermen failing to meet to receive said rolls, the same may be delivered to the city clerk with the same effect as if delivered to the board of aldermen.

Meaning of the words "board of taxes and assessments" in this chapter; majority clause.

§ 908. Whenever any act is required or authorized to be done or any determination or decision made by the board of taxes and assessments, or any other body or board, then in the absence of express provision to the contrary, any such act, if done, or any such determination or decision, if made by a majority of the body or board shall, within the meaning of this act be held to be the act, determination or decision of the body or board.

Assessment-rolls to remain in custody of [municipal assembly] board of aldermen.

§ 909. The tax or assessment-rolls, when finally submitted to the [municipal assembly] board of aldermen on the first Monday of July in each year, shall remain in [the] its custody [of said assembly], but the president of the board [council] may, by written permission, permit access to them, and he is hereby, in the name of the [municipal assembly] 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 [collector of assessments and arrears,] comptroller, 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 city clerk to procure the proper warrants authorizing and requiring the receiver of taxes to collect the several sums therein mentioned according to law, and such warrants need be signed only by the president of the [council and the president of the] board of aldermen, and countersigned by the city clerk, and immediately thereafter the president of the [council] board of aldermen 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.

Id.; duties of [municipal assembly] board of aldermen, respecting.

§ 910. At such annual meeting the [municipal assembly] board of aldermen 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 can not be made, they must expunge the descriptions of such real property, and the

assessment 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 boroughs 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 borough, as corrected by the [municipal assembly] board of aldermen.

Corrected roll to be delivered to receiver of taxes.

§ 911. They must also cause the assessment-rolls of each borough, when corrected according to law, and finally completed, or a fair copy thereof, to be delivered to the receiver of taxes in and for the city on or before the [first] fifteenth day of September thereafter, with the proper warrant or warrants annexed, signed by the president of the [council and the president of the] board of aldermen and countersigned by the city clerk, directing and requiring him to collect from the several persons named in the assessment-rolls 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 city.

Penalty for [municipal assembly's] board of aldermen's neglect.

§ 912. If the [municipal assembly] board of aldermen shall wilfully 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 The City of New York the sum of five hundred dollars, to be recovered in a civil action; and shall also be punishable for a misdemeanor, and upon conviction thereof, shall forfeit his office.

Where taxes due and payable.

§ 913. The receiver of taxes upon receiving the assessment rolls and warrants shall immediately cause the assessment rolls

and warrants for each of the several boroughs wherein he shall [under the designation of the municipal assembly] have an office, to be delivered at and filed in such office, and shall thereafter proceed to collect and receive said taxes from the several individuals and corporations assessed in the said assessment-rolls in the manner hereinafter prescribed.

Receiver of taxes to give public notice.

§ 914. The receiver of taxes shall, immediately after he shall have received the assessment-rolls, give public notice for at least five days in the City Record [and the corporation newspapers.] and in such newspaper or newspapers published in the several boroughs as may be designated by the board of city record, or in default of any newspaper being published in any borough, in such newspaper or newspapers having a general circulation in such borough as the board of city record shall direct, that said assessment-rolls have been delivered to him and that all taxes [are then] shall be due and payable at his office in the said respective boroughs on the first Monday in October, and that in case of payment [on or] before the first day of November thereafter the persons so paying shall be entitled to the benefits mentioned in the next section. All taxes shall be and become liens on the real estate affected thereby on the day when they become due and payable as above provided and shall remain such liens until paid.

Rebate for prompt payment.

§ 915. 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 receiver or any of his deputies to receive the same, and to deduct therefrom interest, at the rate of six per centum per annum, between the day of such payment and the first day of December then next succeeding.

Interest on unpaid taxes.

§ 916. If any such tax shall remain unpaid on the said first day of December, it shall be the duty of the receiver of taxes

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 shall have been delivered to the receiver of taxes] taxes became due and payable, as provided by section nine hundred and fourteen of this act, 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 a part of the tax collected by him.

Id.; continued.

§ 917. It shall be the duty of the said receiver, in person or by his deputies, to charge, collect, and receive upon all taxes remaining unpaid on and after the said first day of January, interest at a rate of seven per centum per annum, to be calculated from the day on which the said [assessment rolls and warrants shall have been delivered to the receiver] taxes became due and payable as provided by section nine hundred and fourteen of this act.

Duty of receiver where taxes remain unpaid on the first of November following the delivery of assessments and warrants.

§ 918. If any taxes of any year shall remain unpaid on the first day of November next after the assessments and warrants to collect such taxes have been delivered to the receiver of taxes at his office in the borough of Manhattan, it shall be the duty of the receiver to give notice by advertisement for at least ten days in the City Record [and the corporation newspapers], and in such daily paper having a general circulation in any borough as the board of city record shall designate, that unless the same shall be paid to him at his office [on or] before the first day of December, in any such year, he will immediately thereafter proceed to collect such unpaid taxes as provided herein.

Public notice to be given by receiver after December first in each year.

§ 919. The receiver of taxes shall immediately after the first day of December, in each year, give public notice in the

City Record, [and the corporation newspapers] and in such daily paper having a general circulation in any borough as the board of city record may designate, at least ten days, notifying all persons or corporations who have omitted to pay their taxes to pay the same to him at his office in the borough of Manhattan or to his several deputies in the several boroughs.

Undivided parts of taxes; payment of.

§ 920. 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.

Corporations, tax for; how collected.

§ 921. The said receiver of taxes shall proceed in enforcing the collection and payment of taxes against corporations or associations and their officers and directors, or trustees, in the same manner as against individuals; 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 afterward declared.

Daily statement of taxes received to be rendered to chamberlain.

§ 922. 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. But the duty by this section imposed may, in respect to the borough of Brooklyn, be discharged by the deputy receiver

of taxes and the deputy chamberlain located in the borough of Brooklyn, and likewise by similar deputy officers for the borough of The Bronx, the borough of Queens, and the borough of Richmond.

Receiver's account of taxes received; how to be kept.

§ 923. It shall be the duty of the receiver, and of deputy receivers, 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 receiver of taxes, personally or by deputy, the fact of such payment, the amount thereof, and the day when paid, and to enter into suitable books, to be kept for that purpose, on each day such payment 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, personally or by deputy, a detailed statement of such sums of the borough for which received, and 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 receiver or deputy the statement, compare the same with a voucher furnished to him by 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.

Penalty for failure to report to chamberlain.

§ 924. If the receiver of taxes, or any 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 parties suspended shall be 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 receiver of taxes, and the deputy receiver, shall apply to the person or persons so appointed in their stead by the comptroller.

Provision in case of sickness.

§ 925. In case of inability of the 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 or absence, and shall, in his discretion, take from such person a bond, with sufficient sureties, in the manner prescribed in the preceding section.

Collection of unpaid personal tax by distress and sale.

§ 926. 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 any marshal commanding him to levy the said tax, with interest thereon at the rate of seven per centum per annum from the day [Of the delivering of the assessment-rolls and warrants to the said receiver] on which said taxes became due and payable as provided by section nine hundred and fourteen of this act to the time when the same shall be paid by distress and sale of the goods and chattels of the person against whom the said warrant 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 to pay the same to the said receiver and return such warrant within thirty days after the date thereof. For the purposes of this section the jurisdiction of the marshal is co-extensive with The City of New York. The comptroller of The City of New York, however, may from time to time as may be necessary to insure prompt collection of said tax, extend or renew such warrant, but no single extension or renewal thereof shall in any event exceed sixty days.

Id.; may add costs of distress and sale.

§ 927. 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, which costs shall be in addition to any disbursements five cents for every dollar collected to the amount of one hundred dollars, and two and one-half cents for every dollar collected over one hundred dollars.

Id.; sale to be advertised.

§ 928. The marshal to whom a warrant for the collection of any tax is issued shall give public notice at 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.

Id.; disposition of surplus.

§ 929. 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 marshal until the rights of the parties shall be judicially determined.

Id.; cases to be sent to corporation counsel.

§ 932. It shall be the duty of the receiver of taxes to send or cause to be sent to the corporation counsel, 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 has been issued and unsatisfied for a period of sixty days, or re-

turned 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 counsel is authorized to make requisitions upon the said receiver for all such cases.

Id.; duties of corporation counsel.

§ 933. The corporation counsel shall 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 or personal property, and shall, subject to such control, act as 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.

Court to dismiss proceedings if satisfied that taxes on personal property cannot be paid.

§ 934. The court in which any proceeding may be commenced to enforce the payment of any tax for personal property, may dismiss the proceedings absolutely without costs, or conditionally, upon the payment of costs, or may, on the facts, in its discretion, dismiss such proceedings on the payment of such part of the tax and costs as shall be just, in any case where it shall be satisfied that the person or persons taxed are unable, for want of property, or other reason to pay any tax. In cases where any proceedings 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 counsel to report all cases dismissed on account of the inability of the person to pay the tax to the commissioner of taxes and assessments, annually, on the thirty-first day of December in each year; and said commissioner is hereby authorized to strike the names of all such persons from the assessment-rolls for the succeeding year.

Counsel to keep register, etc.

§ 935. The corporation counsel 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 expiration of his term of office, or his resignation thereof or removal therefrom, the corporation counsel 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 any way connected with his office, or any business pertaining thereto. The said counsel or any marshal shall pay over, under oath, to the receiver of taxes of said city, monthly, or oftener, if required, all taxes collected by him.

Receiver; when may sue for personal taxes.

§ 936. Any tax duly imposed for personal property upon any person or corporation in The City of New York, which shall remain unpaid and in arrears 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 the name of the city, in an action in any court of record in this state.

Unpaid taxes and assessments, levied prior to January first, eighteen hundred and ninety-eight; special provision.

§ 937. All taxes [and] assessments and water rates levied before the first day of January, eighteen hundred and ninety-eight, by lawful authority, in any of the municipal and public corporations hereby consolidated, including the counties of Kings and Richmond, and that part of the county of Queens included [with] within The City of New York, as hereby constituted, and which shall remain due and unpaid and have or may become arrears of taxes, assessments or water rates as provided by the laws relating to either of the municipal and public corporations hereby consolidated, [on said first day of January, eighteen hundred and ninety-eight,] shall become and be due and payable to and collectible by said city, and all tax and assessment lists relating to said unpaid taxes, assessments and water rates in the possession of any officer of any of said municipal and public corporations and counties hereby

consolidated, [on the thirty-first day of December, eighteen hundred and ninety-seven,] shall be [delivered] transmitted to and deposited with the comptroller or his duly authorized representative [on or immediately after the first day of January, eighteen hundred and ninety-eight]. All such lists [except those of the boroughs of Manhattan, the Bronx and Brooklyn,] shall thereupon be transmitted by the comptroller to the collector of assessments and arrears, to be collected by him, or by one of his deputies, by suit or under and pursuant to the laws in force when the said taxes, assessments and water rates were levied or in force on December thirty-first, eighteen hundred and ninety-seven. Such collections including all sales of property for said arrears of taxes, water rates and assessments and the preparation and publication of the lists of parcels of land upon which any taxes, assessments or water rates have been returned unpaid, shall be held and completed under and pursuant to the provisions of the laws in force at the time said taxes were levied or in force on the thirty-first day of December, eighteen hundred and ninety-seven, provided, however, that any restriction as to time of publication and sale in said laws shall not be held to be a limitation on the right to sell such lands for unpaid taxes, and such sales may be made at any time; and provided further that in the borough of Brooklyn, the collector of assessments and arrears, or his deputy, shall not be confined to the month of December for the preparation of said list. [Taxes on real estate and water rents in the boroughs of Manhattan and the Bronx levied prior to January first, eighteen hundred and ninety-eight, shall be collected by the receiver of taxes, or by one of his deputies, in the same manner as heretofore provided therefor, and shall be payable in the office of the said receiver of taxes in the borough of Manhattan until June first, eighteen hundred and ninety-eight, when return thereof shall be made as provided in section one thousand and twenty-three of this act. Arrears of taxes and water rents and assessments for local improvements in the borough of the Bronx, confirmed prior to January first, eighteen hundred and ninety-eight, including assessments confirmed by a court of record,

shall be collected by the collector of assessments and arrears at his office in the borough of Manhattan until such time as the comptroller shall provide for the proper collection thereof at the branch office of the collector of assessments and arrears in the borough of the Bronx. Taxes on real estate, water rates and assessments in the borough of Brooklyn shall be collected by the receiver of taxes of The City of New York, or by one of his deputies, in the same manner and up to the same time as heretofore provided therefor by the city of Brooklyn, when return thereof shall be made as provided by section one thousand and twenty-three of this act. Taxes on personal property unpaid on January fifth, eighteen hundred and ninety-eight, may be collected as elsewhere provided in this act for the collection of taxes on personal property in The City of New York.】

TITLE 2.

Assessments for Local Improvements Other than Those Confirmed by a Court of Record.

Assessment; term, how construed.

§ 942. The word assessment, wherever used in this title and in the next succeeding one, shall be construed to mean an assessment for any local improvement which may be lawfully confirmed in any other manner than by a court of record.

Mayor to appoint a board of assessors; salary; subordinates.

§ 943. The mayor shall appoint three 【five】 persons, who shall constitute the board of assessors. The salary of each member of said board shall be three thousand dollars a year. The said board shall be charged with the duty of making all assessments, other than those required by law to be confirmed by a court of record, for local improvements for which assessments may be legally imposed in any part of The City of New York as hereby constituted. The said board shall appoint a secretary and such clerks and subordinates as may be necessary. 【and shall fix their salaries, not exceeding in the aggregate the appropriation made for such purpose in the final estimate. The secretary, clerks and subordinates of the board of assessors, of the mayor, aldermen and commonalty

of the city of New York, shall be and act as secretary, clerks and subordinates of the board of assessors herein provided for until and unless they shall be removed or superseded by the last-mentioned board of assessors.】

The board of revision of assessments.

§ 944. The comptroller, corporation counsel and president of the 【board of public improvements】 department of taxes and assessments shall constitute the board of revision of assessments. The said board, or a majority thereof, shall have and perform all the powers and duties relative to the revision, correction and confirmation of assessments specified in the various laws and ordinances relating to assessments in any part of The City of New York, as hereby constituted, other than assessments made by commissioners appointed by a court of record, and other than those confirmed by the board of assessors; said board shall have power to consider, on the merits, all objections made to any such assessment, and to subpoena and examine witnesses in relation thereto, and to confirm said assessment, or to refer the same back to the board of assessors for revisal and correction in such respects as it may determine. The revision of such assessment 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. All such assessments, immediately upon confirmation, shall be transmitted to the comptroller for entry and collection.

Powers of the two boards.

§ 945. In addition to the powers herein specifically conferred upon the board of assessors and the board of revision, the said boards shall have and exercise, as to the whole territory embraced in The City of New York, each and every power and authority conferred upon and exercised by the board of assessors, and the board of revision and correction of assessments, respectively, of the corporation heretofore known as the mayor, aldermen and commonalty of the city of New York.

Certificates on which assessments are made.

§ 946. All assessments shall be made by the board of assessors on the following certificates, to wit:

1. The officer or head of the board or department charged with the execution of the work in question, shall certify to the board of assessors the total amount of all the expenses which shall have been actually incurred by The City of New York on account thereof.

2. The comptroller shall certify to the board of assessors the amount of the interest, at the legal rate, upon the several instalments 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 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 of revision of assessments.

Assessment not to exceed one-half the valuation.

§ 947. The assessors shall in no case assess any house or lot, improved or unimproved lands, more than one-half the fair value of such house, lot, improved or unimproved lands.

Assessment for repaving; when forbidden.

§ 948. Unless it shall be petitioned for by a majority of the owners of the property, on the line of the proposed improvement, no assessment shall be imposed for the paving of any street, or any portion thereof, which has been once paved, and the expense thereof paid by the owners of the adjoining property; provided, however, that nothing herein contained shall be construed to relieve or release the owners of property, grantees of the mayor, aldermen and commonalty of the city of New York, of or from any covenants to pave or repave or otherwise physically improve such streets.

How property shall be described by the assessors.

§ 949. In all cases the assessors shall describe in the assessment the property assessed by the same ward or block numbers, or other designations as shall be used to designate the said property on the tax books of The City of New York. They shall also describe the houses and lots assessed by their street numbers, if any. The assessors shall also state the name of the owner or owners and occupant or occupants, if they be known to the assessors, and it shall be their duty to ascertain, as far as may be, by inquiry from the commissioners of taxes and assessments or others, such ownership and occupation, and such commissioners shall afford the requisite information.

Notice of completion of assessments to be given.

§ 950. It shall be the duty of the board of assessors, when it has completed any proposed assessment, to give notice of the fact and that it is proposed to lay the same to the owner or owners; such notice shall be published daily in the City Record and the corporation newspapers for at least ten days successively. The notice shall describe the limits within which it is proposed to lay the said 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 secretary of the board of assessors within thirty days from the date of such notice, and specifying a time and place after the expiration of the said thirty days when and where the said objections will be heard and testimony received in reference thereto if after hearing and examining such objections and testimony, 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 proposed assessment to the board of revision of assessments. If no objections shall be received, or if the board of assessors shall alter the assessment so as to satisfy the objectors, said board shall forthwith declare the said assessment confirmed, and shall transmit the same to the comptroller for entry and collection. An assessment so confirmed shall be of the same force and effect as if confirmed by the board of revision of assessments.

Award of damages for changes of grade; liability in such cases.

§ 951. All cases where a change of grade of any street or avenue has been made prior to the taking effect of this act, shall, as to the liability to make compensation for damages caused by such change of grade, be governed by the laws in force at the time such change of grade was made. After the taking effect of this act there shall be no liability to abutting owners for originally establishing a grade; nor any liability for changing a grade once established by lawful authority, except where the owner of the abutting property has subsequently to such establishment of grade built upon or otherwise improved the property in conformity with such established grade, and such grade is changed after such buildings or improvements have been made. In such cases damages occasioned by such change of grade to such buildings and improvements shall be ascertained and assessed in connection with and as a part of the expenses of grading or otherwise improving the street or avenue in conformity with the grade as changed. A grade shall be deemed established by lawful authority within the meaning of this section where it was originally adopted by the action of the public authorities, or where the street or avenue has been used by the public as of right for twenty years and been improved by the public authority at the expense of the public or of the abutting owners. All laws inconsistent herewith are hereby repealed. In case the grade of any such street shall be changed, and the same shall have been regulated and graded according to the new grade, after the certificate of the cost of such regulating and grading shall have been received by the board of assessors, it shall be the duty of the said board to cause to be published in the "City Record" and the corporation newspapers, for at least ten days successively, a notice which shall contain a request for all persons claiming to have been injured by the said change of grade to present, in writing, to the secretary of the board of assessors, their claims, specifying a place where and a time when the said board will receive evidence and testimony of the nature and extent of such injury. After hearing and considering the said testimony and evidence the board of assessors shall make such awards for such loss and damage, if any, as it may deem proper. The amount of the said awards shall be in-

cluded in the assessment for the regulating and grading of the street in question, as a part of the expense thereof, and the said award, and the proceedings of the assessors in relation thereto, shall be subject to review by the board of revision of assessments.

Foregoing section; how construed.

§ 952. The foregoing section shall not be construed to authorize the making of an award for loss or damage caused by change of grade in any case in which an award could not legally be made under laws existing immediately previous to the passage of this act, and affecting any part of the territory of the mayor, aldermen and commonalty of the city of New York nor shall it be construed to affect the powers of any commission acting under any laws of this state.

Awards; when to be paid; action for default.

§ 953. The City of New York shall, within four months after confirmation of any assessment, including awards made in pursuance of the last section but one, pay to the respective parties entitled thereto the amount of such awards, and in case of its neglect or failure to pay the same at the expiration of the said period, and after demand, it shall be lawful for the persons entitled to the same to sue for and recover the amount of their awards. In case any such award or compensation shall be paid to any person not entitled thereto, when the same ought to have been paid to some other person, it shall be lawful for the person to whom the same ought to have been paid to sue for and recover the same with interest and costs, as so much money had and received to his 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 can not be found, or their title to receive such awards disputed, it shall be lawful for The City of New York to pay the sum 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 invested as the supreme court

shall direct, and such payments 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 persons of full age, single women and of sound mind.

Assessments for deepening water in docks, etc.

§ 954. The expense of conforming to any order or direction made in accordance with section eight hundred and thirty-two of this act, 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.

TITLE 3.

*Vacating and Modifying Assessments for Local Improvements
Other than Those Confirmed by a Court of Record.*

Remedies limited.

§ 958. 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. It shall be lawful, however, for the comptroller, acting under the written advice of the corporation counsel, to compromise and settle claims for assessments for local improvements heretofore confirmed and interest thereon, and payments made in accordance with the terms of such settlements shall be in the nature of accord and satisfaction and no action shall be maintainable to recover back amounts thus paid.

Petition to the supreme court in case of fraud or substantial error.

§ 959. 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 justice of the supreme court in special term or in vacation, who shall thereupon, upon due notice to the corporation counsel, 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 may 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. Any order that may be made by a justice under authority of this section shall be filed in the office of the county clerk of the county in which the lands are situated, and after the filing of a certified copy thereof with the officer having charge of the assessment, it shall be his duty to cancel or reduce the assessment as required by the order, or do any other act required thereby.

Assessments not to be set aside for certain irregularities and technicalities.

§ 960. No assessment heretofore made or imposed, or which shall hereafter be made or imposed for any local improvement or other public work, 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 reason 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 an 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 person and of The City of New York shall become and be the same as if such sale had not been made.

All claims may be embraced in one proceeding.

§ 961. 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.

Power of court to vacate or reduce assessments limited and qualified.

§ 962. No court shall vacate or reduce any assessment in fact or apparent, whether void or voidable, on any property for any local improvement, 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 or fair cost of any local improvement, with interest at the rate of three per centum per annum from the date of confirmation to the date of the final order of reduction and seven per centum thereafter, be disturbed for any cause. The provisions of this section shall apply to

actions to recover money paid for assessments, and the amount recovered shall be limited to the excess over the fair value or fair cost of the improvement.

When proceedings to vacate, etc., to be brought.

§ 963. All proceedings to vacate or reduce assessments in The City of New York must be brought within one year after the confirmation thereof.

Re-assessment.

§ 964. Any lands which may be discharged from any lien for an assessment for any local improvement or as to which a sale for non-payment of such assessments authorized to be made by section ten hundred and twenty-seven of this act has been vacated or set aside 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; and 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 city.

TITLE 4.

Opening Streets and Parks.

Authority to open streets.

§ 970. 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 streets, parks, 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 waters within or separating portions of The City of New York, or of the water fronts of The City of New York, or part or parts thereof, heretofore duly laid out upon the map or plan of The City of New York, of the city of Brooklyn, of Long Island City or of any of the territory [by this act] consolidated with the corporation heretofore known as the mayor, aldermen and commonalty of the city of New York, or hereafter duly laid out upon the map or plan of The City of

New York, as herein constituted, and to cause the same to be opened. The board of **[public improvements]** estimate and apportionment is authorized to direct the same to be done whenever and as often as it shall deem it for the public interests so to do. The lands, tenements and hereditaments that may be required for such purposes may be taken therefor, 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 said benefit. The City of New York is authorized to make application, or to cause application to be made, to the supreme court of this state in the first or second judicial departments, as the case may be, for the appointment of commissioners of estimate and assessment to ascertain and determine the compensation and recompense which should justly be made to the respective owners, lessees, parties and persons respectively entitled unto or interested in the lands, tenements, hereditaments and premises proposed to be taken for any of the purposes aforesaid, and to assess the cost of such improvement **[of]** or such proportion thereof as the board of **[public improvements]** estimate and apportionment directs, upon such parties and persons, lands and tenements as may be deemed to be benefited thereby. Streets or portions thereof which are continuations of each other in the same general direction may be embraced in the same proceeding. The moneys collected upon the assessment of the commissioners of estimate and assessment shall be paid into the city treasury. The damages awarded by the commissioners of estimate and assessment shall become due and payable immediately upon the confirmation of the report of said commissioners of estimate and assessment.

Removal of buildings.

§ 971. The board of **[public improvements]** estimate and apportionment may permit any building, which shall be either partly or wholly included within the limits of any such street, or park laid out in the said city, and so to be opened as aforesaid, to remain unremoved for such time or times as they shall think proper.

Columbia college, St. John's college and University of The City of New York; streets not to be opened through grounds of.

§ 972. It shall be unlawful to open any streets through the grounds belonging to the corporation of St. John's College, in its actual occupation at what was formerly known as Fordham, or through or upon any part of the land and premises now owned by the University of The City of New York, extending from Sedgwick avenue to Aqueduct avenue, in The City of New York, and lying immediately south of and adjacent to One Hundred and Eighty-first street, sometimes called University avenue, so long as the same shall be owned or occupied for educational purposes by the said university; provided, however, that nothing in this section contained shall be construed to interfere with the opening of One Hundred and Eighty-first street, between Andrews avenue and Aqueduct avenue, at any time hereafter, and provided that the said University of The City of New York shall dedicate without claim or reward for damages all of the land required for East One Hundred and Eighty-first street, between Andrews avenue and Aqueduct avenue. No street from One Hundred and Sixteenth street to One Hundred and Twentieth street, or from Amsterdam avenue to the Boulevard shall at any time be opened through the grounds of Columbia college, so long as such grounds are owned or occupied for educational purposes.

Application for the appointment of commissioners.

§ 973. Whenever the opening of any street shall have been duly authorized and directed, as provided in this act, it shall be the duty of the corporation counsel immediately to institute a proceeding to acquire title for the use of the public to the land required for such street, and upon due notice by advertisement duly published in the "City Record" and the corporation newspapers for ten days, and by causing copies of the same in handbills to be posted for the same space of time in three conspicuous places adjacent to the property to be affected by the intended improvement, to make application to the supreme court, in the appropriate department thereof within the city, and in the manner appropriate to proceedings for the appointment of commissioners of estimate and assessment, indicating in such application the land required for that purpose by reference to the maps on file in his office. Upon such an application it shall be lawful for the said court to [n]ominate

and] appoint three discreet and disinterested persons, being citizens of the United States, all of whom shall be residents and freeholders of the borough where the property to be taken is located, commissioners of estimate and assessment in said proceeding, for the performance of the duties in this chapter mentioned. [The corporation counsel may nominate three discreet and disinterested persons to said court, of whom it may designate one who may 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 whose 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 may be appointed; but if a majority shall not agree upon one person, then the court may appoint one person out of the names on such list, after which the said court may appoint a third person out of the names so presented by the corporation counsel and by the parties interested, all of which persons so named] The persons so appointed shall be subject to the right of challenge on the ground of interest, incapacity or disqualification to be exercised by the corporation counsel or by any person having an interest in the said proceedings; and if any of them be rejected for good cause, or refuse to serve, then another shall be appointed [may be nominated] in his stead by the court. [same party.]

Amendments of defects.

§ 974. Said court shall have power at any time to amend any defect or informality in any special proceeding authorized by this title, that may be necessary, or to cause property to be affected thereby to be excluded, or other property to be included therein by amendment, upon ten days' notice published and posted as aforesaid, 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, or be removed. If, in any particular, it shall, at any time be found necessary to amend any petition, pleading, proceeding or order, 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 corrections.

Vacancies among commissioners; how filled.

§ 975. In case of the death, resignation, refusal to act, or failure to qualify within ten days after his appointment 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 of any of the justices thereof, on the application of the city, on notice only to any person interested who may have appeared on the prior application, 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, refusing to act, or failing to qualify, and the surviving or acting commissioners, as the case may be, shall have 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 or failing to qualify, shall be appointed.

Two commissioners may act.

§ 976. 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.

Oath of commissioners.

§ 977. Commissioners when they are appointed and before they enter upon the performance of the duties of their ap-

pointment, shall severally take and subscribe before some person authorized by law to administer oaths, the following oath or affirmation: "I do solemnly swear (or affirm) that I will support the constitution of the United States and the constitution of the state of New York, and that I will faithfully discharge the duties of the office of commissioner according to the best of my ability." Such oath or affirmation shall be filed in the office of the clerk of the county in which the order appointing the said commissioners has been entered.

Commissioners to view and give notice of their appointment.

§ 978. It shall be the duty of the said commissioners when appointed in a proceeding, to view the lands, tenements and premises to be thereby acquired, and lands, tenements, hereditaments, and premises adjacent thereto, if they shall deem such view to be necessary or useful. They shall cause to be published in the "City Record" notice of their appointment, containing a brief statement of the purposes for which they have been appointed, and requiring all parties and persons interested in the real estate taken or to be taken for the purpose of opening, extending, enlarging, straightening, altering or otherwise improving the said street or park affected thereby, and having any claim or demand on account thereof, to present the same to them duly verified, with such affidavit or other proof as the owners or claimants may desire, within twenty days after the date of such notice, and stating a time and place after the expiration of said twenty days when the said parties and persons shall be heard in relation thereto by the said commissioners. At the time and place fixed by said notice, or at any such further or other times and places as the said commissioners may appoint, the said commissioners shall hear such owners and examine the proof of such claimant or claimants, or such additional proof and allegations as may then be offered by such owners, or on behalf of The City of New York.

Certain powers of commissioners.

§ 979. It shall be lawful for the commissioners of estimate and assessment duly appointed in proceedings authorized by this title to administer oaths. And the said commissioners may, as a condition for the opening of a default, require the

party applying therefor to pay the fees of the commissioners, and the clerical expenses of the commissioners, for the additional meeting or meetings of the commissioners made necessary by the fault of such party. They shall reduce any testimony taken before them to writing. They may cause such maps or diagrams to be prepared, if they deem the same necessary, as will enable or assist them to hear and determine the claims or interest of the said owners and persons interested. From the surveys and maps furnished to or prepared by them 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 the claimants to the respective plots or parcels of land to be taken or assessed by such proceeding, and which shall also specify, in figures, with sufficient accuracy, the dimensions and bounds of each said tracts or parcels. The said commissioners, before the completion of their estimate and assessments, may obtain from The City of New York a profile or plan, if they shall deem the same useful, showing the intended regulation of the street, or part of a street, with regard to the opening of which they have been appointed, 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. The said commissioners may require any board, department, or officer of The City of New York to furnish to them such surveys and maps as may be required by them.

Commissioners to ascertain damages and benefit.

§ 980. After hearing such testimony and considering such proofs as may be offered, the commissioners, or a majority of them, all having considered the same, or having had an opportunity to be present, shall, without unnecessary delay, ascertain and estimate the compensation which ought justly to be made by The City of New York to the respective owners, lessees, parties and persons respectively entitled unto or interested in the lands, tenements, hereditaments and premises so

required for the improvement; and make a just and equitable estimate and assessment, also, of the value of the benefit and advantage of such improvement to the respective owners, lessees, parties and persons respectively entitled unto or interested in the lands, tenements, hereditaments and premises not required for the said improvement, and prepare an abstract of their estimate and assessment. They shall not, in making their estimate and assessment of the value of the benefit and advantage of the said improvement, be confined to any definite limit, but shall and hereby are authorized to extend such estimate and assessment to any and all such lands, tenements and hereditaments and premises as they may deem to be benefited by the improvement, and which they may judge expedient to include in their report in the premises. The board of [public improvements] estimate and apportionment may in any case determine whether any, and, if any, what proportion of the cost and expense thereof shall be borne and paid by The City of New York, and the remainder of such cost and expense shall be assessed upon the property deemed to be benefited thereby. The determination or decision of said board as to the proportion of cost and expense to be borne and paid by The City of New York, and as to the proportion to be borne by the property benefited, after it shall have been made and announced, shall be final, and such determination or decision shall not be reopened or reconsidered by said board. The said commissioners 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 them. It shall be lawful for the said commissioners, 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 building or buildings taken in the proceeding, but not of any other improvement, upon The City of New York. If the said commissioners of estimate and assessment shall judge that any 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, they shall proceed to make, together with the other estimates and assessments required by law 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 report and included in the assessment for benefit.

Abstract of estimate and assessment to be deposited.

§ 981. The said commissioners shall deposit in the bureau of street openings in the law department their said abstract of their estimate and assessment at least thirty days before their report shall be presented to the court for confirmation, which abstract shall be accompanied by copies of the diagrams used by them 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 and proofs used by them in making their report. They shall also publish a notice for fifteen days in the "City Record" and in the corporation newspapers and when authorized pursuant to this act, in not more than one newspaper published in the borough in which the property is located, 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 proceedings, or in any of the lands affected thereby, having objections thereto, shall file the same, in writing, duly verified, with said commissioners within twenty days after the first publication of said notice, and that the said commissioners will hear parties so objecting at a place and at a time after the expiration of said twenty days, to be specified in said notice. Similar notice for at least ten days shall be given of any new, supplemental or amended abstract. At the time and place named in said notice the said commissioners shall hear the person or persons who have objected to the said abstract, and who may then and there appear, and shall have power to adjourn from time to time until all such persons shall be fully heard.

Amendment of abstract.

§ 982. It shall not be lawful for the commissioners of estimate and assessment to alter or amend any abstract or report,

or supplemental or amended abstract or 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.

Witness; how compelled to testify.

§ 983. 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 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 matter as he may know, touching such objection, any one of the said commissioners of estimate and assessment in the proceeding 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 commissioner 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 any justice of the supreme court upon application duly made on behalf of the commissioner 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 commissioner.

Commissioners to present report to court.

§ 984. 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 shall file the said report, signed by them or a majority of them, in the office of the clerk of the county where the lands are situated at least five

days before the time mentioned in said notice for the presentation of said report to the court for confirmation, or the date to which the same shall have been duly adjourned. The said commissioners, or any person interested in said proceeding, shall notify the corporation counsel and all persons who have filed their objections as aforesaid; or who have theretofore appeared as soon as the said report shall have been filed. The corporation counsel may present the same for confirmation, or in case of his neglect or refusal, any person interested in the lands taken or required for said improvement may present the same, upon notice to the corporation counsel.

Report; what to contain.

§ 985. The report of the commissioners shall consist of the diagram 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, showing 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 or interested in any lands, tenements, hereditaments, or premises affected by the improvement. 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 street or park, or part thereof so to be opened, or laying out and forming or extending and enlarging or otherwise improving such street or park so 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 number of the tracts and parcels indicated by said diagrams, and state the several sums respectively estimated for as 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. 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, as belonging to unknown owners. 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 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 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 to, 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 street or park or section thereof 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 of the estates or interests of such owners and proprietors and parties interested, or of any or either of them. Said commissioners of estimate and assessment may, [in their discretion, or when required by] when authorized by a unanimous vote of all the members of the board of [public improvements] estimate and apportionment make up and file a preliminary abstract of their estimate of damages, separate and apart from their estimate of assessments for benefit, embracing either the

entire lands, tenements, hereditaments, and premises to be acquired or successive sections or parcels thereof, and ascertain and estimate the compensation to be made thereon and make a separate report with reference thereto. Such separate or partial report shall be made in the same form and manner, and such proceedings shall be had in respect thereto, as in respect to the report of the commissioners relative to the entire lands taken and assessed as herein provided for, except that the final or last separate report shall contain the assessment for benefit.

Proceedings upon presentation of report for confirmation.

§ 986. The application for the confirmation of the report shall be made to the supreme court, at a term thereof held within The City of New York as constituted by this act, and in the judicial department within which the lands are situated. 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 title to said lands shall not have been theretofore vested in The City of New York, or if said lands are not being condemned for a public park, parkway, public square or place, and 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 proceeding to be discontinued; otherwise the said court shall by rule or order, after hearing any matter which may be alleged against the same, either confirm the said report in whole, or in part, or refer the same, or a part thereof, to the said 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 or part thereof shall be so referred shall return the same report or such part thereof, 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 wholly confirm, and such report, when so con-

firmed by the said court, shall, unless set aside or reversed on appeal, be final and conclusive, as well upon The City of New York as upon the owners, lessees, persons, and parties interested and entitled unto the lands, tenements, hereditaments and premises mentioned in the said report; and also upon all other persons whomsoever.

Duplicate copies of report to be filed.

§ 987. Duplicate copies of said report signed by the said commissioners, or any two of them, shall be filed by the corporation counsel of said city, one in the office of the comptroller, and the other in the office of the clerk of the supreme court, where the order confirming said report is entered.

Appeals.

§ 988. The City of New York or any party or person affected by the said proceeding and aggrieved by the said report when confirmed as aforesaid, may appeal to the appellate division of the said court. Such appeal shall be taken and heard in the manner provided by the code of civil procedure and the rules and practice of the said court in relation to appeals in special proceedings, and such appeal shall be heard and determined by such appellate division upon the merits both as to matters of law and fact. But the taking of an appeal by any person or persons shall not operate to stay the proceedings under this act, except as to the particular parcel of real estate with which the appeal is concerned; and the order confirming the said report shall be deemed to be final and conclusive upon all parties and persons affected thereby who have not appealed. Such appeals shall be heard upon the evidence taken before the said commissioners, or such part or portion thereof as the court at special term may certify, or the parties to said appeal may agree upon as sufficient to present the merits of the questions in respect to which such appeal shall be had, and on affidavits as to irregularities which have been presented to the court at special term upon the coming in of such report of said commissioners. When an order confirming a report shall be reversed upon appeal, the commissioners to whom such report shall be referred for amendment, correction, or revisal, shall have power to make such additional assessment as may be necessary.

Appeal to court of appeals authorized.

§ 989. An appeal to the court of appeals may be taken by the city or any person or party interested in the said proceeding and aggrieved by the order of the appellate division. Such appeal may be taken within sixty days, and heard in the manner provided by the code of civil procedure and the rules and practice of the court of appeals in relation to appeals in special proceedings. The court of appeals may affirm or reverse the order appealed from, and may make such order or direction as shall be appropriate to the case, whether for a rehearing of the same before the commissioners, or for final confirmation of the report or otherwise. If the report is confirmed, the court of appeals shall enter a final order in the proceedings which shall be binding upon all persons having any interest in the property or franchises condemned, and directing that compensation be made, pursuant to the determination of the commissioners, and the city shall thereupon be entitled to take and hold forever the property and franchises condemned for the public use. Payment of the compensation into the court to the credit of any person or corporation mentioned in said order, in case tender thereof shall have been refused by such person or corporation, shall be deemed a payment within the provisions of this act.

Vesting of title.

§ 990. Should the board of **[public improvements]** estimate and apportionment at any time deem it for the public interest that the title to the lands and premises required for any street or park heretofore or hereafter laid out, widened, altered, extended, or otherwise improved, should be acquired by The City of New York at a fixed or specified time, the said board of **[public improvements]** estimate and apportionment may direct, by **[resolution]** a three-fourths vote, where no buildings are upon such lands, that upon the date of the filing of the oath of the commissioners of estimate and assessment, as provided for in this chapter, or upon a specified date thereafter, and where there are buildings upon such lands, that upon a date not less than six months from the date of the filing of said oath, the title to any piece or parcel of land lying within the lines of any such street or park, shall be vested in The City of New York. Thereafter, when the said

commissioners shall have taken and filed said oath, upon the date of such filing or upon such subsequent date as may be specified where no buildings are upon such lands, and where there are buildings upon such lands upon the date specified by said board of [public improvements] estimate and appor-
tionment, either before or after the filing of such oath, the same being not less than six months from the date of said filing, The City of New York shall become and be seized in fee of said lands, tenements, and hereditaments in the said resolution mentioned, that shall or may be so required as aforesaid, the same to be held, appropriated, converted, and used to and for such purpose accordingly, in like manner as are other public streets and parks, respectively, in the said city. In such cases interest at the legal rate upon the sum or sums to which the owners, lessees, parties or persons are justly entitled upon the date of the vesting of title in The City of New York, as aforesaid, from said date to the date of the report of the commissioners shall be allowed by the commissioners as a part of the compensation to which such owners, lessees, parties or persons are entitled. In all other cases, title, as aforesaid, shall vest in The City of New York upon the confirmation by the court of the report of the commissioners. Upon the vesting of title The City of New York, or any person or persons acting under its authority, may immediately, or at any time thereafter, take possession of the same, or any part or parts thereof, without any suit or proceeding at law for that purpose. The title acquired by The City of New York to lands and premises required for a street, shall be in trust, that the same be appropriated and kept open for, or as part of a public street, forever, in like manner as the other streets in the city are and of right ought to be. The title acquired by The City of New York to lands and premises acquired for a park shall be a fee simple absolute.

Within what time proceedings to be completed; removal of commissioners.

§ 991. The commissioners appointed in pursuance of this title shall complete said proceedings on their part within six months from the time of their appointment, unless further time be allowed by the supreme court. At least five days' notice of the application for such extension shall be given

by the corporation counsel to all persons who have appeared in said proceedings, and have specially requested that notice of any such application be served upon them. Upon such application, the court shall have power to make such order in the premises in respect to the time and manner of completing the report of said commissioners, and in respect to the taking and submission of the proofs of the parties interested, as will enable or require the commissioners to complete said proceedings on their part with reasonable dispatch; and if it shall appear that the said proceeding has been delayed by reason of the inattention, neglect or refusal of said commissioners, or any of them, to act or attend, or of the failure of a majority of them to agree upon a report, the court may remove the commissioner or commissioners so neglecting or refusing, or the commissioners failing to agree, and appoint a suitable person or persons in his or their place. And the said court may, at any time, remove any of said commissioners of estimate and assessment who, in its judgment, shall be incapable of serving, or who shall, for any reason, in its judgment, be an unfit person to serve as such commissioner. The cause of such removal shall be specified in the order making the same.

Owners may convey to the city.

§ 992. The owners of land and of all the estate therein embraced within the lines of any street laid down and shown on the map or plan of The City of New York, 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 incumbrances inconsistent with the title to be acquired by the city, to The City of New York, and upon the delivery of such conveyances to the corporation counsel 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, except as aforesaid, together with abstracts of title and complete searches, if desired by such corporation counsel, it shall be the duty of such corporation counsel to

examine such conveyances and papers, and if such title shall not be rejected for good cause, by such corporation counsel, he shall cause the said conveyances to be recorded in the office in which conveyances of real estate are recorded in the county in which such lands are located within sixty days after their delivery to him, and file them with the comptroller of such city, and thereupon 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; 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 so conveyed, and extending to the centre of the block on either side of such portion of said street so conveyed, be chargeable with any portion of the expense of opening the residue or any portion of the residue of such street, except the due and fair proportion of the awards that may be made for buildings as aforesaid.

Subdivision of plots.

§ 993. If, at any time after the filing of the maps showing the laying out of streets by proper municipal authority, the owner or owners of any lot of land bounded on all sides by streets, and not laid out as and for a public square, place or park, shall desire to subdivide such plot and give public right-of-way into or through such plot, he, she, or they may submit two sets of 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 [board of public improvements,] local boards of the borough where said land is located for approval; and if the same shall be approved by said local boards at a joint session thereof, and the owner or owners aforesaid shall immediately thereafter convey in such form as shall be approved by the corporation counsel, the title to the land required for such right-of-way, free and clear from all incumbrances, to The City of New York in trust as and for a public street, the same shall from that time be and become an opened public street, the same as if it had been laid out and opened as other streets are or ought to be; and the maps, plans, or surveys thereof, and of the grades therefor, aforesaid, shall

immediately thereafter be certified by the city clerk, and one set thereof shall be filed and remain of record in the office in which conveyances of real estate are recorded in the county in which such land is located, and the other set thereof in the office of the corporation counsel of said city.

City may agree with owners.

§ 994. It shall be lawful for the city 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, or 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 street or park or section thereof so to be opened, or laid out and formed, or the extension, enlargement, or other improvement of the street or park 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, heredita-

ments, 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.

City entitled to compensation and liable to assessment.

§ 995. If any lands, tenements, hereditaments or premises belonging to The City of New York, or wherein it 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 city shall be entitled to compensation and recompense for the loss and damage it may sustain, and shall be bound to allow and pay for the benefit and advantage it 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 principals, 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 city for the said loss and damage, or for the said benefit or advantage, as the case may be, to the city, by and in consequence of said operation and improvements of opening the said street or park, or section thereof so to be opened, or laying out, or forming, or extending, enlarging or otherwise improving the same, 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 such assessments which may be properly payable by the city shall be assessed against it in a gross sum in each and every such proceeding[s].

Contracts of landlord and tenant; how affected.

§ 996. 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 vesting of the title in The City of New York, 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 such vesting of title, 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.

Corporation counsel to represent interests of city before commissioners, and provide clerks and offices; expenses.

§ 997. It shall be the duty of the corporation counsel to furnish the commissioners of estimate and assessment who may be appointed in any proceeding to open, widen, extend, alter, or close any street, park or parkway in said city, such necessary clerks and other employees, and to provide such suitable offices as they may require to enable them to fully and satisfactorily discharge the duties imposed upon them by this chapter; the corporation counsel shall, either in person or by such assistant or counsel as he shall designate for the purpose, appear for and protect the interests of the city in all proceedings in court and before the commissioners. All expenses for searcher's or surveyor's fees, and such other necessary expenses and disbursements which The City of New York shall incur under the provisions of this section shall be paid by the comptroller out of the fund for street and park openings provided for by existing laws, and shall be borne and reimbursed and paid to The City of New York 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 shall be included in and taxed by the court, upon due proof of the ser-

VICES rendered, and disbursements charged as part of the necessary costs and expenses of the said proceedings; but such expenses and disbursements shall not be included in the assessments for benefit until after they have been taxed before a justice of the supreme court, in the appropriate department.

Other costs and charges.

§ 998. Except as hereinbefore otherwise provided, no costs or charges of the said commissioners or others shall be paid or allowed for any service performed under this title, unless the same shall be taxed by the said court after notice given as provided in the following section. Upon such taxation, due proof of the nature and extent of the services rendered and disbursements charged shall be furnished, and no unnecessary cost or charges shall be allowed. Each of the commissioners of estimate and assessment shall receive **[six]** ten dollars for each day upon which he attends a meeting of the said commissioners and is **[shall meet and be]** actually and necessarily employed in the performance of the duties imposed upon them by this act, at the offices provided for said commissioners by the bureau of street openings in the law department, or at a meeting of the commissioners to view the premises. All such costs, fees and expenses or disbursements, which by law are required to be taxed as in this chapter provided, shall be stated in detail in the bill of costs and charges and expenses, and shall be accompanied by such proof of the reasonableness and necessity thereof, as is now required by law and the practice of the said court upon taxation of costs and disbursements in other special proceedings or actions in said court. **[**; provided, however, that in any proceeding of an unusually difficult or extraordinary character, the said court, may, upon taxing said costs or expenses, make such additional allowances to the said commissioners as may to it appear just and equitable, upon such proof as may be submitted of the nature and extent of the services rendered by said commissioners.**]**

Taxation of costs.

§ 999. A bill of said costs, charges, and expenses shall be filed in the office of the clerk of the county in which the order appointing the said commissioners has been entered, at least ten days before the same shall be presented for taxation. There shall be annexed a statement of the amounts, if any, previously taxed, to whom the same were payable, and the date of such taxation. A notice of at least ten days shall be published in the "City Record," and the corporation newspapers, and served upon the corporation counsel, of the time and place of taxing said costs, charges, and expenses, which shall be thereupon taxed by a justice of the supreme court, or a referee under his special order, and before the report of said commissioners shall be presented for confirmation. On said final taxation there may be a retaxation of any bill previously taxed in the same proceeding, if sufficient reason therefor be made to appear.

Discontinuance of proceedings.

§ 1000. The board of [public improvements] estimate and apportionment is authorized and empowered to discontinue any and all legal proceedings taken for opening, widening, straightening, extending, altering, or closing streets or parks, or parts thereof, at any time before title to the lands and premises to be thereby acquired shall have vested in The City of New York, if, in its opinion, 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.

Damages for land taken; when to be paid.

§ 1001. All damages awarded by the commissioners of estimate and assessment[s] with interest thereon from the date of said report, and all costs and expenses which may be taxed, shall be paid by The City of New York to the respective persons and bodies politic or corporate mentioned or referred to in said report, or in whose favor such costs or expenses shall be taxed. Interest shall cease to run on sums awarded as damages six months after the date of the confirmation of said report unless within that time demand therefor be made upon the comptroller. Said damages, costs, and expenses shall be paid from the fund for street and park openings provided for

in this act, and by existing laws. The person or persons to whom awards shall be made in such proceedings, and the person or persons in whose favor costs and expenses may be taxed, shall not have been an action at law against The City of New York for such awards, costs, or expenses, but the court in which said proceedings have been had, upon the application of any such person or persons, in case of the failure of the comptroller of said city to pay the same within thirty days after demand therefor, shall require and direct the comptroller to pay said awards, costs, and expenses from the said fund, and enforce said order or mandate in the same manner as other orders and mandates of said court are enforced. Provided, however, that whenever the amount of damages awarded in any report, together with the costs of the commissioners, shall exceed the balance remaining in said fund after deducting all outstanding claims against said balance, the comptroller shall and he is hereby authorized to raise, by the issue and sale of revenue bonds, such amounts as shall be necessary to pay such damages, costs, and expenses, and said court, upon the application of any person or persons in whose favor, or to whom awards shall be made in such proceeding, and the person or persons in whose favor costs and expenses may be taxed, may require or direct the comptroller to raise the money necessary to enable him to pay such awards, costs and expenses, and from such fund to pay the same, except that when any sum or sums shall in said report be made to unknown owners, the supreme court shall, upon the application of said city of New York, or of any person entitled to, or claiming to be interested in the lands, tenements, or hereditaments for which said awards have been made, or any part thereof, either direct the same to be retained by the comptroller, or to be paid into the supreme court, until the title thereto, or of the respective estates and interests of all parties therein shall be determined by said court, and upon such application, the said court may take the proof and testimony of the claimant or claimants, or parties interested in the lands for which said awards have been made, or refer the matter to a referee for such purpose.

Moneys of persons under disability; how disposed of; moneys paid to wrong person.

§ 1002. 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, femme 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, can not upon diligent inquiry be found, it shall be lawful for the city 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 invested 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, discover, and compos mentis; and provided also, that in all, and each, and every case and cases, where any such sum or sums, or compensations, so 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.

Sums to be equally and proportionately assessed.

§ 1003. All moneys paid under the provisions of this title by the city, except such part thereof as the board of [public improvements] estimate and apportionment shall direct to be borne and paid by The City of New York, 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.

Sums assessed to be liens.

§ 1004. 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 street or park or section thereof, or of the extension, enlargement, or other improvement of the street or park mentioned in the said report, shall be a lien or charge on the lands, tenements, hereditaments, and premises, in the said report of the said commissioners mentioned, or upon the estate and interests 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 upon the said respective owners and proprietors thereof, or parties interested therein. The owners, proprietors 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 report of the commissioners, 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 city shall appoint to receive the same. The said respective sums or assessments, with interest as in this act provided, may be recovered with all costs and charges by the city 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 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.

Comptroller to publish notice of confirmation of assessment, etc.

§ 1005. It shall be the duty of the corporation counsel to transmit to the comptroller, immediately after the confirmation of any assessment for a street or park opening, a duplicate copy of the report of the commissioners of estimate and assessment relating thereto, and if such assessment affects property in boroughs other than the borough of Manhattan, a copy of the assessment list, and a certified copy of the order of the supreme court confirming the same, and it shall thereupon, be the duty of the comptroller to give public notice by advertisement, for at least ten days in the "City Record," and the corporation newspapers, [immediately after the confirmation of any assessment for a street or park opening,] as soon as practicable and within ten days after receipt thereof, that the same has been confirmed, specifying the title of such assessment, the date of its confirmation by the supreme court, and also the date of entry in the record of titles of assessment kept in the bureau for the collection of assessments and of arrears of taxes and assessments, and of 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 in sixty days.

§ 1006. 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 and 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 from the date when such assessment became a lien as provided by section one hundred and fifty-nine of this act.

Interest limited to excess in certain cases.

§ 1007. 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 the 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 payments of the amount of loss and damage.

Notices in proceedings to open streets; how published.

§ 1008. Any notice now required, or hereafter to be required, by law to be published in any proceeding for the opening, extending, widening or altering any street or park in said city, shall hereafter be published in the "City Record," and the corporation newspapers. Whenever handbills now or hereafter may be required by law to be posted in any such proceeding, they shall be posted or affixed with paste or other adhesive substance in three conspicuous places upon or near the lands to be taken in such proceeding, 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.

Application of previous sections.

§ 1009. Nothing contained in title three of this chapter relating to the vacating and reduction of assessments shall apply to assessments made pursuant to this title.

What included in word "street" as used in chapter.

§ 1010. Whenever the word "street," or the plural thereof, occurs in this chapter it shall be deemed to include all that is included by the terms, "street, avenue, road, alley, lane, highway, boulevard, concourse, public square and public place," or the plurals thereof, respectively.

Order appointing commissioners to be filed in register's or county clerk's office.

§ 1011. It shall be the duty of the corporation counsel, within ten days after the entry of an order appointing commissioners in a proceeding authorized by this title, to file a copy of such order in the office of the register or county clerk of the county in which the land to be acquired is located. There shall be endorsed upon such copy order a reference to the section and block or the sections and blocks on the land map of such county which include the land to be taken by such proceeding or abut thereon. The register or county clerk with whom such copy order shall be filed shall index in the index of conveyances on each block so endorsed on said copy order a statement giving the title of said proceeding and the date of the entry of said order.

TITLE 5.

Sales of Lands for Taxes, Assessments and Water Rates.

When taxes and water rents to be liens on lands assessed.

§ 1017. All taxes and all assessments for local improvements and all water rents, and the interest and charges thereon, which may, in The City of New York, as by this act constituted, hereafter be laid or may have heretofore been laid, upon any real estate now in said city, shall continue to be, until paid, a lien

thereon, and shall be preferred in payment to all other charges. No assessments for any local improvements shall be deemed to be fully confirmed, so as to be due and be a lien upon the property included in the assessment, until ten days after the title thereof, with the date of confirmation 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 collector of assessments and arrears.

Comptroller to publish notice of confirmation of assessments.

§ 1018. It shall be the duty of the comptroller to give public notice, by advertisement, for at least ten days, in the City Record and the corporation newspapers, [duly designated for any borough, in which the property is situated, immediately] as soon as practicable and within ten days 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, and also the date of entry in the record of titles of assessments kept in the office for the collection of assessments and of arrears of taxes and assessments, and of water rents, [notifying] addressed as a class to all persons, owners of property affected by any such assessments, 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 be thereafter collected thereon as provided in the following section; and all provisions of law or ordinance requiring any different or other notice of assessments and interest thereon are hereby repealed.

Interest to be charged if assessment unpaid for sixty days.

§ 1019. If any such assessment shall remain unpaid for the period of sixty days after the date of entry thereof on 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 from the date when such assessment became a lien as provided by section one hundred and fifty-nine of this act.

Rate.

§ 1020. Interest shall hereafter be charged and collected at the rate of seven per centum per annum on all arrears of taxes and assessments returned to the collector of assessments and arrears from the time they become due until the date of payment, or in case a sale has taken place, as provided in section ten hundred and twenty-seven, until the date of the certificate mentioned in said section, and on the rents and charges for water from the time the taxes become due, to which they may be added as required by section ten hundred and twenty-five, until the same date respectively.

Apportionment of assessment.

§ 1021. If a sum of money in gross has been or shall be assessed for local improvements, upon any lands or premises in The City of New York, any person or persons claiming any divided or undivided part thereof may pay such part of the sums 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 land or premises.

Commissioner of water supply, gas and electricity to transmit separate account for each ward; penalty for wasting water.

§ 1022. The commissioner of water supply, gas and electricity shall, annually [at the time the tax levy in each year is confirmed by the municipal assembly,] on the first day of August in each year, cause to be prepared and transmitted to the [collector of assessments and arrears] comptroller a separate account for each section or ward of all lots on which the water rents for [that] the preceding water year, including the extra charges to be included in said rents, as provided by this act, may remain unpaid, with the amount due on each lot, and shall, at the same time, notify the comptroller of the aggre-

gate amount of such water rents so returned, and shall thereafter receive no payment on account of the same, but may, nevertheless, certify to the [collector of assessments and arrears] comptroller any overcharges, which shall, upon said certificate, be remitted by the [collector of assessments and arrears] comptroller at any time before settlement. The said commissioner of water supply, gas and electricity is hereby authorized to prescribe a penalty, not exceeding the sum of five dollars for each offense, for permitting water to be wasted, and for any violation of such reasonable rules as he may from time to time prescribe for the prevention of the waste of water; such fines shall be added to the water rents.

Receiver of taxes to return arrears to the collector.

§ 1023. The receiver of taxes shall, on the first day of June, in each year, make a return to the collector of assessments and arrears, of all taxes on real estate and of water rates and rents, 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 the arrears so returned, by charging the amount thereof to the said collector, and shall thereafter receive no payments on accounts of arrears so returned, but may nevertheless certify to the collector of assessments and arrears any errors, which shall, upon such certificate, be corrected by the said collector any time before settlement.

Division of notification of assessments; notifying taxpayer.

§ 1023a. 1. There shall be a division of notification in the bureau for the collection of assessments and arrears of taxes and assessments and of water rents in the department of finance in The City of New York, the chief officer of which shall be a notification clerk, who shall have two assistants. Said notification clerk and said assistants shall be appointed by the comptroller of The City of New York, and shall hold office during his pleasure, and discharge their duties under the supervision and direction of the collector of assessments and arrears. The salaries of the said notification clerk and of said assistant clerks [shall be fixed by the comptroller, but] shall not exceed fifty-five hundred dollars. [The board of estimate and apportion-

ment of the said city, is hereby required to appropriate annually in the budget such sum as may be necessary for the support and expenses of the said division, and the salaries of the said notification clerk and assistants, which sum shall annually be included in the tax levy by the municipal assembly. For the purpose of providing the moneys necessary for the payment of said salaries, and expenses, for the year eighteen hundred and ninety-nine, the comptroller is hereby authorized, when thereunto directed by the board of estimate and apportionment, to issue revenue bonds of said city, the redemption whereof shall be provided for in the budget, for the year nineteen hundred.]

2. The owner of any lot, piece, or parcel of land in the borough of Manhattan in The City of New York or any person interested in such lot, piece or parcel, may file with such notification clerk a statement containing a brief description of such land, together with the section, block and lot number thereof and a statement of the applicant's interest therein, together with a written request that such lot, piece or parcel of land be registered in the division of notification, in the name of the applicant. In the said statement the applicant shall designate a post-office address to which notifications addressed to him shall be sent. The notification clerk shall thereupon register in a volume to be kept in said division as hereinafter provided, a brief description of such lot, piece or parcel of land corresponding to the description thereof in the statement so filed, together with the name of the applicant and his post-office address and the date of such application.

3. As soon as any assessment for a local improvement shall have been confirmed, including assessments confirmed by a court of record, and the list thereof shall have been entered and filed in the bureau for the collection of assessments and arrears of taxes and assessments, and of water rents, the said notification clerk and his assistants shall examine said assessment list and shall thereupon within twenty days after such confirmation mail a notice addressed to each person in whose name any lot, piece or parcel of land, affected by such assessment, is registered, at the post-office address registered in the records of said division, enclosed in a post paid wrapper, which notice shall contain the brief description of the lot, piece or parcel of land registered in the name of the person to whom said notice

is addressed, together with the amount assessed thereon, date of confirmation, and title of the improvement for which said assessment is made, and a statement of the interest or penalty imposed for the nonpayment of the said assessment, and the date from which the interest or penalty will be computed. Failure to comply with the provisions of this act, however, shall in no manner affect the validity or collectibility of any assessment for legal improvement heretofore or hereafter confirmed, nor shall any claim arise or exist against The City of New York, the comptroller, the collector of assessments and arrears or any officer of said city by reason of such failure.

4. The collector of assessments and arrears shall for the purpose of this act provide one or more volumes for each section of the city, included within the borough of Manhattan, as the same shall appear upon the tax maps of The City of New York, each of which volumes shall be ruled and printed in a proper and convenient manner.

Water rents to be provided for in assessment-rolls.

§ 1024. There shall be ruled in the yearly assessment-rolls of each section or ward a column headed "water rents" in which immediately after the confirmation of such assessment-rolls, the collector of assessments and arrears shall cause to be entered opposite the ward, lot, town block and map numbers of the property on which the said arrears may be due, the amounts due for "water rents," as transmitted to him by the commissioner of water supply, gas and electricity, in accordance with the 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.

Arrears likewise to be provided for.

§ 1025. There shall be ruled in the yearly assessment-rolls of the taxes in each section or ward, a column headed "arrears," in which the collector of assessments and 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, lot, town block and map numbers on which any arrears of taxes, or of taxes with the water rent added, shall be due, or on which any assessment shall remain unpaid which was due or confirmed [thirteen months]

one month prior to the first of June, then last past, or which may have been sold for assessments, taxes or water rents, and yet be redeemable.

Bills for taxes to show arrears.

§ 1026. There shall be ruled a column for "arrears" in every bill rendered for taxes for lots on which said arrears or assessments, or taxes with water rents added, may be due, as aforesaid, or may have been sold and yet be redeemable, in which shall be written opposite the entry of the ward, lot, town block and map number of said lot, "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 and block 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 bill shall be printed: "the columns for arrears indicate lots sold for arrears, or to be sold therefor; arrears to be paid and lots redeemed at the office of the collector of assessments and arrears."

Sales of lands for taxes and assessments; proceedings.

§ 1027. Whenever any tax on lands or tenements, or any assessments on lands or tenements for local improvements, shall remain unpaid for the term of three years from the time the same shall have been confirmed, and also whenever any rents for 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 collector of assessments and 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 water rents so remaining unpaid, together with the interest thereon at the rate of seven per centum per annum to the time of payment, with the charges of such notice and advertisement, to the said collector, 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 water rents, as the case may be, and the interest thereon as aforesaid to the time of sale, and the charges of the above mentioned notices 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 water rents, with the interests as aforesaid, and the charges attending such notice and advertisement, then it shall and may be lawful for the said collector 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 collector shall give to the purchaser or purchasers of any such lands and tenements a certificate of sale, 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 of the said lands and tenements. But no houses or lots, or improved or unimproved lands, in The City of New York, shall be hereafter sold or leased at public auction for the non-payment of any tax, assessment, or 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 and the corporation newspapers, which advertisement shall contain, appended to said notice, a particular and detailed statement of the property to be sold for taxes, assessments or water rents; or the said detailed statement and description, instead of being published in the City Record and the corporation newspapers, 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 said collector, 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 water rents, and the ownership of the property taxes assessed, and on which the water rents are unpaid, is published in the City Record and the corporation

newspapers, or in a pamphlet, as the case may be, and that copies of the pamphlet are deposited in the office of the said collector, and will be delivered to any person applying for the same. No other notice or demand of the tax, assessment or water rent shall be required to authorize the sale of any lands and tenements as hereinbefore provided.

Contiguous lots to be advertised as one parcel.

§ 1028. In advertising houses and lots and improved or unimproved lands to be sold for the non-payment of taxes and assessments or water rents, it shall be the duty of the collector of assessments and 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.

Postponement of sales.

§ 1029. 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 and the corporation newspapers.

Sales for taxes and assessments to be conducted by the collector of assessments and arrears; provision for repayment of purchase money when the sale is vacated.

§ 1030. The collector of assessments and arrears or his assistant shall conduct the sales hereinbefore provided to be made, and no auctioneer other than said collector 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 upon payment of the amounts therein shown to be due. And all certificates of sale, not paid for within thirty days following the date of sale, may be cancelled by the collector of assessments and arrears and the sales relating thereto declared void. In case

any sale shall be vacated or cancelled, the purchaser, his legal representative or assign, shall be repaid the amount paid by him at such sale, with interest thereon from the time of such payment.

Corporation may bid in property.

§ 1031. It shall be lawful for the collector of assessments and arrears, at any sale of lands and tenements in The City of New York, for taxes, assessments or water rents, to bid in, for The City of New York, 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 collector to The City of New York in the form and manner prescribed for individuals. 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 City of New York, with the same effect as in cases of leases to individuals in this title provided.

Id.; how assigned.

§ 1032. It shall be the duty of said collector, in all cases of purchases of lands and tenements by The City of New York for taxes, assessments or 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 collector of assessments and arrears, for the use of the city, the purchase money, with seven per centum 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 in the city 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 water rents.

Certificates where consolidated municipality has bid in property.

§ 1033. In cases where lands within the boundaries of any of the municipal corporations or parts of municipal corporations by this act, consolidated with the corporation known as the mayor, aldermen and commonalty of the city of New

York, have been sold for taxes and assessments and the title upon such sales has passed to either of said municipal corporations or parts of municipal corporations, such title is hereby transferred to and vested in the corporation of The City of New York as constituted by this act; and said corporation shall have all the rights, privileges, and property of its predecessor in said title and the same powers and privileges in respect to the enforcement of the same or the sale or lease thereof, and the comptroller of the city shall control the same in all respects, as by statute in such cases already made and provided.

Redemption of lands purchased by corporation.

§ 1034. In all cases of lands and tenements purchased by The City of New York for taxes, assessments, or water rents, in which the same shall not have been assigned, any person claiming title to 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 city, the purchase money with seven per centum 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 city pursuant to the provisions of this title, it shall be the duty of the said collector in the name of the said city, to cause notices to be served in the manner in this title provided.

Corporation to take possession of unclaimed lands.

§ 1035. It shall be lawful for The City of New York, and it is 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 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 City of New York, over and above all the rents, issues, and profits which may be received by The City of New York for or on account of the rents, issues and profits of any such premises; provided always, that The City of New York shall not be entitled to demand any sum of money for any such improvements, unless it shall have caused to be published, in the City Record and the corporation newspapers 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 city shall account for and pay over to the rightful owner of any such lots of land all the rents, issues, and profits which The City of New York 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 notification mentioned in this section, and as shall not exceed two-thirds of the value of said lots of land.

Mortgagees to be notified of sale before the time to redeem expires.

§ 1036. In cases of sales of real estate for the non-payment of taxes or assessments, it shall be the duty of the collector of assessments and arrears, sixty days before the time limited by law for the redemption of any real estate from the effects 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 or county clerk of the county in which said real estate is situated] comptroller 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 collector of assessments and 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.

How such notice shall be given.

§ 1037. 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 collector of assessments and 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.

Affidavit of service.

§ 1038. 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 or county clerk] comptroller or a certified copy thereof under the signature of [such register or county clerk] said comptroller shall be evidence of the fact of such notice.

[Register or county clerk] Comptroller to record memoranda.

§ 1039. It shall be the duty of the [said register or county clerk] comptroller to keep in his office a book, alphabetically arranged, for the registering of all such memoranda as aforesaid, which book shall be open to the inspection of any person desiring to examine the same, without charge. The [said register or county clerk] comptroller shall be entitled to receive twenty-five cents for registering the memorandum of each mortgage, as above provided.

Mortgagee's right to redeem.

§ 1040. 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 centum per annum, in like manner as if the same had been included in such mortgage.

Notice of expiration of time to redeem to be published; lease to be executed to purchaser on default to redeem.

§ 1041. The collector of assessments and arrears, under 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 the City Record and the corporation newspapers, 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 collector, 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 centum per annum, from the date of such certificate, the said comptroller, in the name of The City of New York, 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 said collector. At the time of receiving the lease the purchaser shall pay the sum of two dollars and fifty cents to the said collector 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 said collector 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 water rents, and all notices required by law to be given previous to the expiration of the two years allowed to redeem, were regu-

lar and according to the provisions of the statute in such cases made and provided; and 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 purchaser'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** ordinances of the **municipal assembly** board of aldermen; 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.

Redeeming a portion of lands sold.

§ 1042. In all cases where pieces or parcels of land shall have been sold for taxes, assessments or water rents, 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, assessment or water rents 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.

Sale of lands actually occupied; notice to be served.

§ 1043. Whenever any lands or tenements sold for taxes, assessments, or 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 centum 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 centum, together with the sum paid for the lease and advertisements, shall be paid to said collector of assessments and 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 interested 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.; mode of service.

§ 1044. 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.; affidavit thereof.

§ 1045. 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 collector of assessments and 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.

Certificate of the comptroller; effect thereof.

§ 1046. 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.

Owner or occupant; when may redeem.

§ 1047. 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 centum 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.

Rate of interest; how to be calculated.

§ 1048. 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 centum 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.

Certificate of redemption to be furnished.

§ 1049. Upon such redemption, as provided for in the two preceding sections, the said collector of assessments and 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.

Lost certificate; delivery of lease in case of.

§ 1050. Whenever any certificate given by the collector of assessments and 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 City of New York. Each certificate shall be registered in the record of sales to be kept in the bureau of said collector of assessments and arrears, and no transfer of such certificate shall be valid until registered in said book.

Bills of arrears of taxes and assessments to be furnished when requested.

§ 1051. The collector of assessments and arrears, upon the requisition of any person, shall furnish a bill of all arrears of taxes, and of taxes with the "water rents" added on any lot or lots due prior to the first of June, then last past, and of assessments which [shall have been due twelve months or over,] are due and payable, including the amount necessary to redeem it or them, if it or they have been sold for any arrears of assessments, taxes or water rents and be yet redeemable; and upon the payment of the said bill (which shall be called a "bill of arrears of assessments, taxes and water rents and for redemption"), his receipt thereon, countersigned by the comptroller, shall be conclusive evidence of such payment. The comptroller shall cause to be kept a duplicate account of amounts so collected, and the certificate of the collector of assessments and 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 water rates added, or for rents of water added to the taxes prior to the first of June then last passed, and for all assessments due [thirteen months or over] and payable prior to the date of the said receipt or certificate, and from all liens in consequence of sales for assessments, taxes, or water rents, 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.

Id.; fees for searches.

§ 1052. Fees for the searches to be paid into the city treasury shall be included in the bills mentioned in the preceding section, and also charges for certificates, which shall be given by said collector of assessments and arrears, respecting lots on which there may be no arrears when searchers are required; the said fees to be regulated by ordinance of the [municipal assembly] board of aldermen.

Complete record of sales to be kept.

§ 1053. There shall be kept in the office of the collector of assessments and arrears a record of all sales made for taxes, assessments and water rents, which record shall show the amount of the tax, the assessment and the 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.

Affidavits of publication of necessary notices to be preserved.

§ 1054. It shall be the duty of the collector of assessments and 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.

CHAPTER XVIII.

DEPARTMENT OF EDUCATION.

- Title 1. The public schools and their management.
- Title 2. The college of The City of New York.
- Title 3. The normal college.
- Title 4. General provisions.

TITLE I.

The Public Schools and Their Management.

Board of education [and school boards]; property under [their] its care and control; in what name suits brought.

§ 1055. The title to all property, real and personal, now or that may hereafter be acquired for school or educational purposes, except the State Normal School at Jamaica, and also the title to all property, real and personal, purchased for school or educational purposes with any school moneys, whether derived from the issue of bonds or raised by taxation in The City of New York, shall be vested in The City of New York, as constituted by this act, but shall be under the care and control of the board of education [and of the school boards of the various boroughs,] as provided in this act, for the purposes of public education, recreation and other public uses. Suits in relation to such property shall be brought in the name of the said board of education. The said city of New York shall have power to take and hold any property, real or personal, devised or bequeathed or transmitted to it for the purposes of education in said city; but such property shall be under the care and control of the board of education [and of the school boards of the various boroughs,] as provided by this act, for the purposes of public education, recreation and other public uses in said city.

School age of children.

§ 1056. The schools of the said city under the management and control of the board of education [and of the several school boards established by this act,] shall be free to all persons over [five] four and under twenty-one years of age residing in said city, but under such regulations not in conflict with the general school law of the state, as the board of education [or the respective school boards] shall prescribe, provided, however, that no child under six years of age shall be received in said schools except in kindergarten classes. [and where kindergarten schools are established under the provisions of this act, they shall, in like manner, be free to children not less than four years of age residing in said city.]

Board of education; succeeds to trusts of public school society.

§ 1057. All the trusts held by or vested in the public school society of The City of New York, as heretofore organized and existing in compliance with the provisions of an 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 said society, which yet remained 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 said society in the execution of every trust.

Board of education [and school boards;] succeeds to duties and powers of former boards, etc.

§ 1058. Subject to the provisions of this act, and so far as is consistent therewith, the board of education of The City of New York, as created by the terms and provisions of this act, [and the school boards of the various boroughs, as created by the terms and provisions of this act,] shall [respectively] be subject to all the duties, possess all the rights and exercise all the powers [now] respectively held by the board[s] of education, the school boards of the several boroughs and the inspectors of common schools on the day when this act takes effect, excepting such duties, rights and powers as shall devolve upon the local school boards as provided in this act [commissioners of education and school trustees existing at the time of

the passage of this act, in and for The City of New York, the city of Brooklyn, or Long Island City, or the school districts of the county of Richmond, and the school districts of that part of the county of Queens by this act consolidated into The City of New York, and such duties shall be deemed under this section to be devolved upon the said board of education or the school boards in the same manner as similar duties are devolved upon the said board of education or the school boards of the boroughs, by this act.】

Money to conduct schools to be raised by taxation. [after eighteen hundred and ninety-eight.]

§ 1059. The board of estimate and apportionment and the [municipal assembly] board of aldermen of The City of New York may [, in the year eighteen hundred and ninety-nine, and in each and every year thereafter,] raise and collect by tax, on the estates, real and personal, liable to taxation in said city, such sum of money as may be necessary to provide for the conduct of the schools as called for by the budget adopted by the said board of estimate and apportionment and the said [assembly] board of aldermen pursuant to the provisions of this act; but nothing contained in this act shall be construed to limit or restrict the power of the board of estimate and apportionment and the [municipal assembly] board of aldermen to fix in their discretion, and in such detail as they may deem expedient, the amounts to be allowed to said board of education in the annual tax levy.

Powers, etc., of school boards, as heretofore constituted, to cease; board of education and the local school boards to succeed to their powers.

§ 1060. The powers, duties and functions of all the school boards in the several boroughs within The City of New York as they have heretofore been constituted shall cease and determine and their offices shall be abolished on the first Monday of February, nineteen hundred and two, and the board of education, as constituted by this act, shall thereupon succeed to such powers, and become subject to such functions and duties as provided by this act.

Board of education; how constituted; president; vacancies; members to serve without pay.

§ 1061. [1062.] There shall be in The City of New York as constituted by this act, a board of education, which shall have the management and control of the public schools and of the public school system of the city, subject only to the general statutes of the state relating to public schools and public school instruction, and to the provisions of this act. The board of education of The City of New York shall consist of [nineteen] forty-six members [and shall be composed as follows: Of the chairman of each of the school boards provided for by the last preceding section, by virtue of his office, and of ten delegates elected by the school board of the boroughs of Manhattan and The Bronx, and of five delegates elected by the school board of the borough of Brooklyn, to be chosen from the membership of said school boards, respectively. The members of the board of education so elected shall serve for one year and until their successors are chosen] twenty-two being residents of the borough of Manhattan; four of the borough of The Bronx; fourteen of the borough of Brooklyn; four of the borough of Queens, and two of the borough of Richmond. The members of the board of education shall be appointed by the mayor and hold office for the term of five years. On the [third] first Monday of February, in the year [eighteen hundred and ninety-eight] nineteen hundred and two, and in every year thereafter, the said board of education shall organize by electing one of its members as president of the board, who shall preside at its meetings, and shall have the same power to vote thereat as any other member, but who shall not have the power of veto. Any vacancy in the office of members of the board of education, caused by death, resignation, or otherwise, shall be filled by appointment by the mayor for the unexpired term, subject to the provisions as to the residence of such members hereinbefore set forth. [in the same manner as the officer whose office is vacated was chosen or elected.] On the third Monday of January, nineteen hundred and two, the mayor shall appoint members of the board of education, to serve until the dates hereinafter specified, namely: In the borough of Manhattan, five members

until January first, nineteen hundred and three; five members until January first, nineteen hundred and four; four members until January first, nineteen hundred and five; four members until January first, nineteen hundred and six; and four members until January first, nineteen hundred and seven. In the borough of Brooklyn, three members until January first, nineteen hundred and three; three members until January first, nineteen hundred and four; three members until January first, nineteen hundred and five; three members until January first, nineteen hundred and six; and two members until January first, nineteen hundred and seven. In the borough of The Bronx, one member until January first, nineteen hundred and three; one member until January first, nineteen hundred and five; one member until January first, nineteen hundred and six; and one member until January first, nineteen hundred and seven. In the borough of Queens, one member until January first, nineteen hundred and three; one member until January first, nineteen hundred and five; one member until January first, nineteen hundred and six; and one member until January first, nineteen hundred and seven. In the borough of Richmond, one member until January first, nineteen hundred and four; and one member until January first, nineteen hundred and seven. In the month of November prior to the expiration of the respective terms of office of the members of the board of education, appointed as aforesaid, the mayor shall appoint their successors to serve for the full term of five years from the first day of January following. The terms for which such appointments are made shall be designated in the certificates of appointment of such members. A change of residence by a member of the board of education from the borough from which he was appointed shall vacate his office. Members of the board of education [and of the several school boards] shall serve without pay, and shall hold no office of emolument under the county, state or municipal government, except the offices of notary public or commissioner of deeds, or offices in the national guard.

Id.; to possess powers and privileges of a corporation.

§ 1062. **[1063.]** For the purposes of this chapter, the board of education of The City of New York shall possess the powers and privileges of a corporation.

Id.; to appoint an executive committee; powers of committee.

§ 1063. It shall be the duty of the board of education in the month of February, nineteen hundred and two, and in each year thereafter in the month of July to appoint a standing committee of fifteen members of the board, who shall, subject to the approval of the board, constitute an executive committee for the care, government and management of the public school system of the city, subject to the by-laws of the board of education. At least one member of such committee shall be selected from each borough. The said board of education may by its by-laws confer upon said committee power to perform any of the administrative powers of the board. It shall be the duty of said executive committee to perform such duties as the board of education may by by-law prescribe. The board of education may, at any regular meeting thereof, by a majority of all the members of the board, remove any or all the members of the said committee, and appoint other members of the board to the vacancies thus created. Said executive committee shall meet at least once in each month. All reports of committees of the board appointed under its by-laws shall be presented to the executive committee for its consideration and action before being presented to the board, unless otherwise ordered by the board. The president of the board shall be ex officio the chairman of the executive committee.

Id.; to be representative of school system; [to require and revise estimates from school boards;] to submit estimate for entire school system.

§ 1064. The board of education shall represent the schools and the school system of The City of New York before the board of estimate and apportionment, and before the **[municipal assembly]** board of aldermen, in all matters of appropria-

tions in the budget of the city for educational purposes, and in all other matters, and shall in general, be the representative of the school system of the city in its entirety. [In the month of July in each year each school board shall transmit to the board of education an estimate in detail of the moneys needed for the purposes of the general school fund within the territory under its jurisdiction during the next succeeding calendar year. The board of education shall, thereupon, restate, rearrange, revise, and verify such estimates and shall have power, in its discretion, to amend or reduce the same, and thereupon]. On or before the fifteenth of September in each year it shall submit, [together with a written memorandum of any such amendment or reduction so made by the said board of education and the reason for making the same] an estimate in detail of the moneys needed for the entire school system of the city, to the board of estimate and apportionment for its action. [Any amendment to or reduction of the estimate of any school board which shall be made by the board of education shall not preclude the right of the board of estimate and apportionment after a proper hearing, to restore to its original form such estimate. The board of estimate and apportionment shall appropriate for the general school fund for the year nineteen hundred and one and, annually, for each year thereafter, an amount equivalent to not less than four mills on every dollar of assessed valuation of the real and personal estate in The City of New York, liable to taxation, inclusive of so much of the state school moneys apportioned by the superintendent of public instruction for the payment of teachers' wages as is actually paid into the said general school fund.] The board of education shall administer all moneys appropriated or available for educational purposes in The City of New York, subject to the general provisions of this act relating to the audit and payment of salaries and other claims by the department of finance.

Id.; to use and control certain premises; [housing the school board of the borough of Manhattan and the other boroughs].

§ [1067] 1065. The board of education shall have power to use and to control the premises known as the hall of the board of education, at the corner of [Grand and Elm streets]

Park avenue and Fifty-ninth street in the borough of Manhattan, and any other buildings to be occupied for like purposes in The City of New York, [therein] and to make all the repairs, alterations and additions in and to the said building or buildings which the board of education may authorize and deem advisable. [And it shall be its duty to make provision for housing the school board of the boroughs of Manhattan and The Bronx in such building or in any other building which may be so occupied by the board of education.] The board of education of The City of New York shall provide [a meeting-room, and] such [other headquarters] offices and rooms, as they may deem advisable within the boroughs of The City of New York, for the administration of the powers and duties conferred by this chapter upon the board of education, the board of superintendents, and the city superintendent. [of the school boards of the other boroughs.]

Id.; to dispose of personal property; disposition of proceeds; to lease property and make contracts.

§ 1066. [1068] The board of education shall have power, in the name of The City of New York and for said city, to dispose of such personal property used in the schools or other buildings under the charge of said board as [the school board of the borough concerned] shall [by resolution certify is] no longer be required for use therein, and all moneys realized by the sale thereof shall be paid into the city treasury and shall at once be appropriated by the board of estimate and apportionment, to the special school fund of the board of education for use in the borough in which the property sold was situated. Said board shall have power to lease property required for the purpose of furnishing school accommodations, and to prepare and execute leases therefor.

Board of education; to appoint certain officers, clerks, etc., and fix their salaries.

§ [1069.] 1067. The said board of education shall have power to appoint a secretary of the board; a superintendent of school buildings, who shall be an architect of experience and good standing, and whose term of office shall be for six years; a superintendent of school supplies whose term of office

shall be for six years; a city superintendent of schools for the term of six years; and one or more auditors. [as may be necessary in the judgment of the board, upon whose certificate accounts against the said board, or charges upon either the special or general school fund may be paid when countersigned by the proper officers, as the by-laws of the said board of education, with the approval of the comptroller of the city, may direct.] The said board may appoint a chief clerk and such other officers, clerks, or subordinates as it may deem necessary for its administrative duties, and as are provided for by the proper appropriation. The city superintendent of schools, the secretary of the board, the superintendent of school buildings, the superintendent of school supplies, the auditor or auditors, and any other officers, clerks or subordinates of the board, may, any or either of them, be removed for cause at any time by a vote of three-fourths of all the members of the board of education and may be suspended by the board of education pending the trial of charges. [The said board shall fix and regulate within the proper appropriation the salaries or compensation of the secretary of said board; of the superintendent of school buildings; of the superintendent of supplies; of the auditor or auditors; of the city superintendent of schools; of members of the board of examiners, and of any other officers, clerks or subordinates, and it may fill any vacancies in such offices or positions.]

Id.; power to enact by-laws, rules and regulations.

§ [1070.] 1068. The board of education shall have power, subject to the provisions of law and of this act, to enact by-laws, rules and regulations for the proper execution of all duties devolved upon the board, its members and committees and upon the several local school boards; for the transaction of all business pertaining to the same; for defining the duties of the city superintendent of schools, the superintendent of school buildings, the superintendent of school supplies, of its auditor or auditors, its clerks and subordinates; for regulating the manner of making disbursements from any of the funds apportioned to any borough for school purposes, for the proper execution of all powers vested in it by law, and for the promotion of the welfare and best interests of the public schools and public school system of the city in the matters committed

to its care. Until the board of education shall act under the provisions of this section the by-laws, rules and regulations of the board of education and of the several borough school boards in force on the first day of January, nineteen hundred and two, shall remain in full force and effect so far as they are not inconsistent with the provisions of this act and are applicable.

Board of education succeeds to specific powers heretofore exercised by borough boards.

§ 1069. The board of education shall, in addition to the other powers herein expressly conferred, have power :

1. To establish and conduct elementary schools, kindergartens, manual training schools, trade schools, truant schools, evening schools, vacation schools and schools for colored pupils.

2. To maintain free lectures within the various buildings under the control of the department of education.

3. To provide special classes whose sessions shall be held at such times in the day or evening as said board may determine, for the purpose of giving instruction in the English language to persons who cannot use that language readily, and whose vocations are such as to prevent their attending the elementary or other schools in the school system.

4. To provide one or more high schools and training schools or classes for teachers as it may from time to time determine, and as the appropriations may permit.

5. To establish and conduct play grounds in connection with the public schools.

6. To establish new schools and discontinue or consolidate any of the schools of the system.

Id.; secretary; duties; secretary and chief clerk may administer oaths.

§ [1071] 1070. The secretary 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 duties as may be required by its members or committees. The secretary and the chief clerk

of said board are authorized to administer oaths and take affidavits in all matters appertaining to the schools in The City 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.

Id.; provide for [bureaus] branches, etc., in boroughs.

§ [1072] 1071. The board of education shall make provision for the organization in the various boroughs of such [bureaus] branches as they may deem necessary in the [departments] bureaus of the superintendents of school buildings and of school supplies, and shall make such provision by its by-laws as will [enable each school board to] secure prompt and efficient service for the selection and acquisition of sites, the planning and erection of new buildings for school purposes, and for the alteration and repair of existing buildings, and for the regulation of the purchase and distribution of school books and supplies, and for the execution and carrying into effect of all matters and things, authority for which shall have been granted by the board, and for the preservation of all school records. Subject to such by-laws, the superintendent of school buildings shall be the executive officer of the board in respect to all matters relating to the bureau of buildings, or in respect to which he is charged with duties under the provisions of this act. He shall advertise for bids for the erection, alteration or repair of any building to be used for educational purposes in The City of New York which has been authorized by the board of education.

Superintendent of school buildings; oath and security by; subject to regulations of board; vacancy in office.

§ [1073] 1072. The superintendent of school buildings shall take and subscribe before the secretary or the chief 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] bureau under his charge shall be subject to such rules and regulations as the board may establish, one of which shall prohibit the performance by him

of any work, on any other account, similar to that performed under the regulations so established, except for [the college of The City of New York and] the normal college of The City of New York, and like institutions in the department of education. Any vacancy in the said office of superintendent of school buildings shall be filled by appointment for the unexpired term.

Id.; deputy in each borough; plans for school buildings.

§ [1074.] 1073. The superintendent of school buildings may appoint a deputy superintendent for each of the boroughs, who shall be an architect or engineer of good standing, and, with the authority of the board of education, he may empower a deputy superintendent in his place and stead to execute all the duties of superintendent and such other duties as the board of education may, by regulation, prescribe. All plans for new school buildings, for additions to school buildings, and for structural changes in old buildings, shall be passed upon, and must be approved by the superintendent of school buildings, who shall [then] submit such plans [to the school board of the borough wherein such buildings are to be erected or such additions or changes are to be made, who shall thereupon transmit such plans with such suggestions, in writing, as they may see fit to make.] to the board of education, whose action thereon shall be final.

Id.; appointment [and removal] of janitors.

§ [1075.] 1074. Janitors shall be appointed by the [school board] board of education. [on the nomination of the superintendent of school buildings. All such nominations shall be from a preferred list of duly qualified persons certified to and on file in the office of the superintendent of school buildings. Janitors may be removed by the school board on complaint of the principal of the school, the superintendent of school buildings or a member of the school board.]

Board of education; purchase of, and regulations regarding supplies.

§ [1076.] 1075. The board of education shall provide for the purchase of all books, apparatus, stationery and other things necessary and expedient to enable the schools of the city to be properly and successfully conducted. It shall cause

to be furnished all necessary supplies, and shall make regulations for the furnishing thereof to the schools in the several boroughs [and for the accounting for the same by the several school boards]. The board of education shall have power to enact by-laws and resolutions for the government of the superintendent of supplies, which by-laws and resolutions shall provide that all supplies, as far as possible, shall be obtained by contract, [for which proposals shall be advertised for a period of at least two weeks.] made at public letting in the manner provided by section four hundred and nineteen of this act.

Superintendent of supplies; oath and security by; subject to regulations of board; vacancy; deputy superintendents and subordinates; depots of supplies.

§ [1078.] 1076. The superintendent of school supplies shall take and subscribe before the secretary or the clerk of the board of education the oath prescribed by the constitution of this state, and shall give such security for the faithful performance of the duties of his office as the board of education may direct; and the [department] bureau under his charge shall be subject to such rules and regulations as the board may establish. Any vacancy in the said office of superintendent of school supplies shall be filled by appointment for the unexpired term. The superintendent of school supplies may appoint such deputy superintendents and such other subordinates as the by-laws of the board of education may authorize, and he may, with the authority of said board, empower a deputy superintendent in his place and stead to execute all the duties of the superintendent, and such other duties as the board of education may by regulation prescribe. He shall establish such depots of supplies in any of the boroughs as may be authorized by the board of education. The superintendent of school supplies shall be the executive officer of the board in respect of the purchase, storing and distribution of all supplies for the use of the schools, the board of education, the officers and employees thereof, the several local school boards and the office of the city superintendent; the printing for the board and any of its officers, employees or departments, and the local school boards; transportation of school children; and

such other matters as may be assigned to him as such executive officer by the by-laws of the board. He shall advertise for bids for supplies and equipments, for the use of the schools, the board of education or any of the bureaus thereof and the several local school boards, which have been authorized by the board of education and when such advertisement is required by law or the by-laws of the board.

City superintendent of schools; rights and duties.

§ [1079.] 1077. The city superintendent of schools shall have the right of visitation and inquiry in all of the schools of The City of New York as constituted under this act, and he shall report to the board of education on the educational system of the city, and upon the condition of any and all of the schools thereof [but he shall have no right of interference with the actual conduct of any school in The City of New York]. He shall have a seat in the board of education, and the right to speak on all matters before the board, but not to vote.

Id.; further duties; annual report; clerks of main office.

§ [1080.] 1078. The city superintendent of schools, so often as he can consistently with his other duties, shall visit the schools of the city as he shall see fit, and inquire into [their] all matters relating to the government, courses of instruction, methods of teaching, management and discipline of such schools, and the condition of the school-houses and of the schools generally; and shall advise and encourage the pupils and teachers and officers thereof; subject to the by-laws of the board of education, he shall prescribe suitable registers, blanks, forms and regulations for the making of all reports, and for conducting all necessary business connected with the school system [not devolved upon the borough superintendent by this act,] and he shall cause the same, with such information and instructions as he shall deem conducive to the proper organization and government of the schools, and the due execution of their duties by school officers, to be transmitted to the officers or persons entrusted with the execution of the same. He shall submit to the board of education an annual report containing a statement of the condition of the schools of the city, and all such matters relating to his office, and such plans and sugges-

tions for the improvement of the schools [in] and the school system, and for the advancement of public instruction in The City of New York as he shall deem expedient, and as the by-laws of the board of education may direct. He may appoint such clerks as he may deem necessary, and as are authorized by the board of education. [but the compensation of such clerks shall not exceed in the aggregate the amount appropriated therefor.] He shall assign his clerks to their various duties, and may suspend or discharge them for cause, but in such case, the clerks shall have a right of appeal to the board of education. He shall report as often as the board of education shall direct upon any matter or matters, entrusted to his charge, in such detail as shall be required of him. He shall maintain his main office in the borough of Manhattan, and in such building as the board of education shall direct. He shall have power, at any time, to call together any or all of the [borough] associate city superintendents and [associate] district superintendents for consultation, and shall assign to them, subject to the by-laws of the board of education, such duties as in his judgment will be conducive to the welfare of the public schools of The City of New York. The district superintendents shall be assigned by the city superintendent to the work of supervision in the local school board districts to be constituted as hereinafter provided, in such manner that each district superintendent shall be assigned to such duty in three of such districts for the period of one-half the school year, and one of such superintendents shall be assigned to a fourth district in addition. At the end of such period the city superintendent shall have power to change such assignments as he may deem best for the interests of the school system, but only in the manner above provided. It shall further be [his] the duty of the city superintendent to report any case of gross misconduct, insubordination, neglect of duty, or general inefficiency on the part of any associate city [borough] superintendent or district [associate] superintendent [first to the school board of the borough concerned, and failing of remedy, then] to the board of education. The city superintendent may empower

an associate city superintendent to execute all the duties of the city superintendent during his absence or disability.

City superintendent, associate city superintendents, board of superintendents, district superintendents and directors.

§ 1079. There shall be six associate city superintendents, who, with the city superintendent, shall constitute the board of superintendents. They shall be appointed by the board of education by a vote of a majority of its members, and shall serve for the term of six years, provided, however, that the borough superintendents in office on the first day of January, nineteen hundred and two, shall serve out as associate city superintendents the terms for which they were appointed by the respective borough school boards heretofore existing, and upon the expiration of their respective terms of office their successors shall be appointed in the manner and for the term herein provided, and provided also that the other two associate city superintendents shall be appointed from the associate borough superintendents in office on the first day of January, nineteen hundred and two, and when so appointed they shall serve out as associate city superintendents the terms for which they were respectively appointed as such associate borough superintendents. The city superintendent shall preside over the board of superintendents, and all communications from the board shall be made in his name unless in any special case he may otherwise elect. The board of education shall have power to pass by-laws regulating the duties of the city superintendent and of the board of superintendents. There shall be fifteen district superintendents to be appointed by the board of education for the term of six years upon the nomination of the board of superintendents, provided, however, that such district superintendents shall be selected in the first instance from the associate borough superintendents in office on the first day of January, nineteen hundred and two, and, when so selected, they shall serve out as district superintendents the terms

for which they were appointed as such associate borough superintendents by the respective borough school boards heretofore existing; and upon the expiration of their respective terms of office their successors shall be appointed in the manner and for the term above provided. The offices of borough superintendent of schools and associate borough superintendent of schools shall be abolished on the first Monday of February, nineteen hundred and two. Any associate city superintendent or any district superintendent may be removed for cause at any time by a two-thirds vote of all the members of the board of education. Except as herein otherwise provided, no person shall be eligible for election as city superintendent, associate city superintendent, or district superintendent who has not one of the following qualifications: (a) Graduation from a college or university recognized by the University of the State of New York, together with at least five years of successful experience in teaching or in supervision since graduation; (b) A principal's certificate for any of the boroughs of The City of New York obtained as a result of examination, together with ten years' successful experience in supervision or teaching. A resignation of the city superintendent shall be made to the board of education. Resignations of the associate city superintendents shall be made to the board of education. Resignations of the district superintendents shall be made to the board of superintendents and shall be reported immediately to the board of education. The board of education shall have power, upon the nomination of the board of superintendents, to appoint such directors of special branches as it deems necessary, for the term of six years; such directors shall be subject to the supervision and direction of the city superintendent. No person shall be eligible for election as director of a special branch, such as music, drawing, kindergarten, etc., who is not: (a) a graduate of a high school or of an institution of equal or higher scholastic

rank; and (b) a graduate from a course of professional training of at least one year in the special branch that he is to supervise or teach; and (c) a teacher of that special branch with at least three years of successful experience.

General duties of district superintendents.

§ 1080. Under the supervision and direction of the city superintendent, district superintendents shall visit every school in the districts to which they are assigned respectively as above provided; shall inquire into all matters relating to the government, courses of study, methods of teaching, discipline and conduct of such schools, and the condition of the school-houses and of the schools generally; shall examine classes when necessary; and shall advise, assist and encourage the pupils and teachers thereof. The district superintendents shall report the results of such inspections and examinations to the city superintendent, who shall transmit such parts of said reports as he may consider necessary or proper to the board of education of The City of New York, and to the local school boards for the districts for which the same are made respectively. Such reports shall be made at such times, concerning such matters, and in such form as said city superintendent shall require. It shall further be the duty of each district superintendent to report to the local school board within any district to which he is assigned, and through the city superintendent to the board of education any case of gross misconduct, neglect of duty, or general inefficiency arising in such district on the part of any principal or teacher or other member of the educational staff within his jurisdiction.

Board of superintendents; lists of principals, etc., to be kept by; where principals report.

§ 1081. The board of superintendents shall keep a list of all principals and teachers in the service of the board of education in the several boroughs, with a record of the dates of their

appointment, the grades and classes taught by them, and of such other matters as the board of superintendents may prescribe. Such lists shall be open to the inspection of teachers (as to their own records only), of members of the board of education, of the members of the local school boards, of district superintendents, and of principals. Principals shall report to the city superintendent or to the district superintendent within their district at such times, upon such matters, and in such form as the city superintendent or such district superintendent may require.

Promotion or transfer of pupils; rules and regulations.

§ 1082. The board of superintendents shall establish for the schools, subject to the approval of the board of education, rules and regulations for the reception of pupils in the schools of the city, the promotion of pupils from grade to grade, from school to school, for the graduation from all grades of schools, and for the transfer of pupils from one school to another.

Recommendations of and requisitions for text books and scholastic supplies.

§ 1083. The board of education shall, upon the recommendation of the board of superintendents, approve text books, apparatus and other scholastic supplies for use in the public schools of the city. Requisitions for such text books, apparatus and scholastic supplies shall be made by principals upon the superintendent of supplies under rules to be established by the board of education, but no requisition for any school shall be honored unless it is approved in writing by the district superintendent of the district where such school is situated.

Changing grades of schools and classes; courses of study; [fixing standard of qualification for principals and teachers.]

§ [1104.] 1084. [A school board] The board of education shall have power to change the grades of all schools and of all classes of any high school or other school under its charge upon the written recommendation of the [borough] board of

superintendents, and upon the same recommendation to adopt and modify courses of study [therefor] for all schools under its supervision. [A school board shall also have power to fix a standard of qualification as a necessary requirement for the service of all principals and teachers in the high schools and schools of the borough, which requirement may be higher, but now lower than the minimum qualifications established by the board of education of The City of New York.]

Duties of the board of superintendents, city superintendent, district superintendents and supervisors with reference to special branches.

§ 1085. The board of superintendents, with the advice of the directors of the respective special branches, shall assign to the several school districts such teachers of drawing, music, physical culture, manual training, cooking, sewing or other special branches as the board of education may appoint. The district superintendents shall assign such teachers of special branches to their duties in the schools of the several districts to which they are appointed. Such teachers shall be responsible to the principal of each school to which they are assigned and to the district superintendent for the performance of their duties therein. The directors of special branches shall act as advisors to the board of superintendents, to the district superintendents, and to principals, with regard to the special branches they supervise; under the direction of the city superintendent they shall examine the work in their several branches, report upon the same, and instruct special teachers and class teachers in the teaching of their several branches.

Methods of teaching. Syllabuses of topics.

§ 1086. Subject to regulations prescribed by the board of superintendents, the principal of each school shall direct the methods of teaching in all classes under his charge. The board of superintendents shall have the power, from time to time, to issue syllabuses of the topics in the various branches taught, which shall be regarded as the minimum amount of work required in such branches.

Power to create local school board districts, presidents of the boroughs to appoint members of the local school boards; terms, organization, etc., of local school boards.

§ 1087. Prior to the fifteenth day of February, nineteen hundred and two, the board of education shall divide the boroughs under its charge into forty-six local school board districts of which twenty-two shall be wholly in the borough of Manhattan, fourteen wholly in the borough of Brooklyn, four wholly in the borough of The Bronx, four wholly in the borough of Queens, and two wholly in the borough of Richmond. The districts in each borough must be compact in form, and, as near as may be, of equal school attendance in the public schools therein. Subject to such conditions of equality of school attendance and that the districts shall be compact in form, the board of education shall thereafter have power every five years, again to divide the said boroughs into said number of districts making such changes in existing districts as it deems proper. Upon the division of the several boroughs into such districts and upon any redivision thereof as above provided the board of education shall file maps of the same, duly authenticated by the secretary of the board, in the office of the mayor of The City of New York, and at the same time shall also file in the office of the president of each borough a duplicate similarly authenticated of the portion of said maps showing the division or redivision of such borough into such districts. There shall be in each of said districts a local school board consisting of seven members as follows: Five persons to be appointed by the president of the borough, a member of the board of education designated by the president of that board as hereinafter provided, and the district superintendent assigned to duty in such district by the city superintendent as hereinbefore provided. When the board of education, pursuant to the powers above conferred, shall have divided any borough or boroughs into local school board districts, the presidents of the boroughs in which such

districts are located respectively shall, within thirty days thereafter, appoint in and for each of such districts five members of the local school board to hold office respectively as may be designated in their letters of appointment, for one, two, three, four and five years from the first day of January next following the date of their appointments. Upon the expiration of their respective terms, such presidents shall appoint their successors for the full term of five years. Where boundaries of any of the local school board districts shall be changed by a redivision of a borough or any part thereof, the board of education shall have power and it shall be its duty to designate the new districts within which the local school boards appointed for districts affected by such redivision shall thereafter act. Such designation shall be made in such manner that the new district within which any local school board shall thereafter act, shall contain a portion of the district for which such board was originally appointed. Within such new districts respectively the said local school boards shall have the same powers, duties and functions theretofore exercised by them within the districts for which they were originally appointed; and they shall serve out as members of the local school board for such new districts the term of office for which they were appointed respectively. All members of local school boards shall serve without pay, and shall be residents of the districts in and for which they are appointed, except that where local school boards are designated by the board of education to act in new districts created as aforesaid, it shall not be necessary for the members thereof to be residents of such districts during the remainder of their terms of office respectively. Any vacancy in any local school board caused by death, resignation or otherwise, shall be filled for the unexpired term by the president of the borough where such vacancy may occur. Each local school board shall, within ten days after all the members thereof shall have been appointed in the year nineteen hundred and two, and on the second Monday of Janu-

ary in every year thereafter, organize by the election of two of its members as chairman and secretary. It shall meet as often as may be necessary for the efficient performance of the duties imposed upon it and not less than once in each month excepting July and August. The president of the board of education shall designate each member of the said board to be an ex officio member of one local school board within the borough where such member shall reside, and he shall serve as a member of such local school board for the term of one year or until the earlier expiration of his term of office as a member of the board of education. When a member of the board of education shall cease for any cause to be a member of the local school board to which he is designated, the president of the board of education shall designate his successor as above provided. A member of the board of education sitting as a member of a local school board shall have power to vote but shall not be eligible for election as the chairman or secretary of such board. The district superintendent assigned to any local school board district as herein provided shall have a seat in the local school board district for such district and the right to speak on all matters before the board. But he shall not have the right to vote or be eligible for election as chairman or secretary of the board. The powers, duties and functions of the inspectors of common schools in office on the thirty-first day of December, nineteen hundred and one, shall continue until the fifteenth day of February, nineteen hundred and two, or until the earlier division of the said boroughs into local school board districts as above provided when they shall cease and determine and the offices of said inspectors shall thereupon be abolished.

Duties of local school boards.

§ 1088. Subject to regulation by the by-laws of the board of education, the duties and powers of the local school boards shall be as follows: (a) In their respective districts, they shall

visit at least once in every quarter, all the schools in the district, and inspect the same, in respect to punctual and regular attendance of the pupils and teachers, the number and fidelity of the teachers, the studies, progress, order and discipline of the pupils, the cleanliness, safety, warming, ventilation and comfort of school premises, and the observance of the provisions of the school laws in respect to the teaching of sectarian doctrines or the use of sectarian books; and shall call the attention of the board of education without delay, to every matter requiring official action. They shall also on or before the first day of January and June of each year, make a written report to the board of education in respect to the condition of the schools, the efficiency of teachers, and wants of the district, especially in regard to schools and school premises.

(b) They shall report immediately to the board of education whenever additional accommodation is necessary for kindergarten or elementary school purposes with a recommendation of the sites within their respective districts which they consider it necessary to acquire for such purposes. They shall also recommend the erection of such buildings on said sites or on any other property owned by The City of New York and such repairs or alterations of school buildings as they deem necessary or desirable. They shall from time to time when additional school accommodation is necessary report to the board of education premises which are suitable and may be hired for that purpose, with the terms upon which the same may be obtained; such report shall be accompanied by a certificate from the borough president that the premises so recommended comply with the law and ordinances in relation to buildings to be used for school purposes. (c) They shall report immediately to the board of education any dereliction of duty on the part of the superintendent of supplies, superintendent of school buildings, the city superintendent, or any of their deputies or assistants or the employees in their respective departments, and they shall present to the board of education all of the facts and circumstances constituting such dereliction of

duty. (d) They shall have power to excuse absences of teachers, within their respective districts, subject, however, to the approval of the board of superintendents in cases where teachers are excused with pay, and in accordance with by-laws of the board of education prescribing rules to govern all such cases. (e) They shall try and determine all matters relating to discipline, corporal punishment and other matters affecting the administration of the schools in their respective districts arising upon the complaint of pupils, parents or guardians against teachers or principals, and to impose such penalties as may be prescribed by the by-laws of the board of education. But they shall not have power to pass upon any such complaint against a teacher until after the matter has been referred to the principal of the school in which such teacher is employed, and he has made a report thereon. (f) They shall have power, and it shall be their duty, to try charges made by a principal, a district superintendent or by any parent or guardian of a pupil, residing in the district, against a teacher employed within their respective districts, for gross misconduct, insubordination, neglect of duty or inefficiency. On receiving notice of said charges they shall immediately proceed to try and determine the case and shall fix the penalty or punishment to be imposed for the offense committed, which shall consist of a fine, suspension for a fixed time without pay, or dismissal. Their determination upon such charges and the penalty or punishment imposed therefor shall be reported immediately to the board of education, which may reject, confirm or modify the determinations of the local board, and the penalty or punishment imposed and the decision of the board shall be final except as to matters in relation to which, under the general school laws of the state, an appeal may be taken to the state superintendent of public instruction. (g) They shall present charges of any dereliction of duty on the part of janitors in their respective districts and present proof thereof to the board of education. (h) They shall procure the enforcement of the law and the by-laws of the board of education relating to the

sanitary condition of the schools and the health of the pupils in their respective districts. (i) They shall have power to transfer teachers from school to school within their respective districts, but only after hearing the principals of the schools affected by such transfers and subject to the approval of the board of superintendents, provided, however, that such transfer shall not involve promotion or increase of salary. (j) They shall report to the board of education and to the board of superintendents all vacancies in the teaching force as soon as such vacancies shall occur. (k) Each local school board shall have power and it shall be its duty to adopt by-laws regulating the exercise of all powers and duties vested in it, which by-laws shall not conflict with the by-laws of the board of education or with the provisions of this chapter. Each local school board shall keep a record of the proceedings of the meetings of the board, which shall be open at all times to inspection by the board of education or any member thereof. The board of education shall from time to time provide for such expenses and furnish such clerical assistance as may be necessary for the proper performance by the local school boards of the city of the duties imposed upon them by this act. The secretary of a local school board shall have charge of the books, papers and documents of the board. He is hereby authorized to administer oaths and take affidavits in all matters pertaining to the schools of The City of New York in his district, in which a local school board has power to act and for that purpose shall possess all the powers of a commissioner of deeds, but shall not be entitled to any fees or emoluments thereof. The board of education shall provide meeting places for the local school boards, which may be in any of the school buildings in their respective districts.

Board of examiners; teachers' licenses, etc.

§ [1081] 1089. A board of examiners is hereby constituted whose duty it shall be to examine all applicants [requiring] who are required to be licensed in and for The City of New

York, and to issue to those who pass the required tests of character, scholarship and general fitness, such licenses as they are found entitled to receive. Such board of examiners shall consist of the city superintendent of schools, together with four persons appointed by the board of education upon the nomination of the city superintendent. The terms of the first four examiners so appointed shall be one, two, three and four years, respectively, and as their terms respectively expire, their successors shall be appointed for a full term of **[four]** six years, which shall thereafter be the full and regular term of office of said examiners. They shall be paid such compensation **[for services actually rendered]** as the board of education shall prescribe. The city superintendent of schools shall have power with the consent of the board of education to employ assistants temporarily at rates to be fixed by the board of education, or to assign one or more of the district superintendents, to aid said board of examiners. To be eligible to appointment as an examiner, an applicant must possess some one of the following qualifications, to wit: (a) A degree or diploma of graduation from a college or university recognized by the regents of the university of the state of New York, together with at least five years' successful experience in teaching since graduation. (b) A state certificate obtained as the result of an examination held since eighteen hundred and seventy-five, together with at least ten years' successful experience in teaching. (c) The highest certificate for a principal or superintendent in force when this act takes effect in any city included in The City of New York as constituted by this act, together with at least ten years' successful experience in teaching. No **[borough]** associate city superintendent, [associate] district superintendent, principal or teacher in The City of New York shall be allowed to serve on the board of examiners, except as herein otherwise provided. [Each school board] The board of education on the recommendation of the [borough] board of superintendents shall designate, subject to the requirements of the state school laws in force when this act takes effect or that may thereafter be enacted, the kinds or grades of licenses to teach which may or shall be used in The [borough or boroughs under its charge] City of New York together with the academic and professional

qualifications required for each kind or grade of license. [and shall certify the same to the city superintendent of schools. Each school board] The board of education, on the recommendation of the [borough] board of superintendents, shall also designate, subject to the like limitations, [and shall certify in like manner], the academical and professional qualifications required for service [in the boroughs under its charge] of principals, branch principals, supervisors, heads of departments, assistants and all other members of the teaching staff. [The board of education, on the recommendation of the city superintendent, shall designate, subject to the requirements of the state school laws in force when this act takes effect or that may thereafter be enacted, the minimum requirements to prevail throughout the city for all officers to be appointed to any supervising or teaching position under any school board.] The board of examiners shall hold such examinations as the city superintendent may prescribe, and shall prepare all necessary eligible lists, which shall be kept in the office of the city superintendent of schools and be open to inspection by members of the board of education, associate city superintendents and district superintendents, and local school boards. [The city superintendent shall transmit to each school board the eligible lists that are available for use within its jurisdiction.] All licenses shall be issued in the name of the city superintendent of schools [and shall state on their face in what borough or boroughs they are valid]. Graduates of colleges and universities recognized by the regents of the university of the state of New York, who have pursued for not less than one year pedagogical courses [therein], satisfactory to the city superintendent; graduates of schools and colleges for the training of teachers, approved by the state superintendent of public instruction; and teachers holding a state certificate issued by the state superintendent of public instruction since the year eighteen hundred and seventy-five, or holding a college graduate's certificate issued by the same authority, or persons who on the first Monday of February, nineteen hundred and two, shall be associate borough superintendents of schools in any borough of The City of New York, may be exempted, in whole or in part, from such examination at the discretion of the city superintendent. The names of those to

whom licenses have been granted, including those exempted from examination and those duly licensed in the several boroughs prior to the date on which this act takes effect, shall be entered by the city superintendent upon lists to be filed in his office, a separate list being made for each grade or kind of license for which the board of education shall by its by-laws make provision; and such lists shall always be open to the inspection of the members of the board of education, the members of the local school boards, the [borough] associate city superintendents, the [associate] district superintendents, [the inspectors] and the principals of schools. Except as city superintendent or associate city superintendent or district superintendent, as [supervisor or] director of a special branch, as principal of or teacher in a training school or as principal of a high school, no person shall be appointed to any educational position whose name does not appear upon the proper eligible list. No person shall teach in any public school in the city who has not such license, except as herein otherwise provided, nor shall any unlicensed teacher have any claim for salary. Licenses to teach shall be issued by the city superintendent of schools for a period of one year, which may be renewed without examination in case the work of the holder is satisfactory to the [borough] city superintendent for two successive years. At the close of the third year of continuous, successful service, the city superintendent may make the license permanent. Authority to revoke any permanent license for cause shall be vested in the state superintendent of public instruction.

[Id.:] Appointment and resignation of principals and teachers.

§ [1103.] 1090. [Principals shall be appointed by the school boards in their respective boroughs on the nomination of the board of borough superintendents.] Principals, branch principals, [supervisors] heads of departments, teachers, assistants and all other members of the teaching staff, shall be appointed by the [school boards] board of education on the [like nomination] nomination of the board of superintendents. Such nominations and appointments shall be made except in the case of high schools or training schools for teachers, for the several local school board districts respect-

ively and when so made the principals, branch principals, heads of departments, teachers, assistants and all other members of the teaching staff shall be assigned to duty to such schools and to such positions in such schools, as the board of superintendents shall determine. Where practicable, teachers shall be appointed for districts in the boroughs where they reside. Teachers [shall] may be promoted or transferred from one school to any other school within the city [one class to another by the school board in accordance with its by-laws, on the nomination of the borough board of superintendents] by the board of superintendents subject to the approval of the board of education; provided, however, that a teacher shall not be transferred from a school in one borough to a school in another borough without his or her consent. For all purposes affecting the appointment, promotion or transfer of the teachers in any school, the principal of such school and, in the case of transfer, the principal of the school to which it is proposed to transfer a teacher, shall have [a] seats in the [borough] board of superintendents, with [a] votes on [all] such propositions. [affecting the school.] The provisions of this section shall not be held to affect or impair the power of the several local school boards to transfer teachers from school to school within their respective districts as hereinbefore provided. [The system or mode of nomination, in this section provided for, shall not be held to deprive any school board that has been a board of education, of the right to appoint, to promote, and to transfer principals, teachers and other members of the teaching staff without such nomination, in any borough in which, at the time this act takes effect, said board of education enjoys such right of appointment without nomination by superintendents, until the same shall have been adopted by the school board of such borough.] The nominations [thus] provided for above must be made from the list of properly certificated principals and teachers and other persons eligible for service in the [schools of the borough in the] positions to be filled, in the regular order of the standing of the candidates on said lists, provided, however, that the board of su-

perintendents may consider for each appointment the three persons whose names are highest on the appropriate eligible list. The time within which said board of education [school board] shall finally act upon said nominations, either by appointing such principal or teacher or other officer or by rejecting such nominations, is hereby fixed at forty days from [the date of the first regular meeting of the school board next after] the filing of such recommendation in the office of the secretary of the board. The failure on the part of [a school board] the board of education to confirm or to reject a nomination within the time prescribed herein shall be held as equivalent to the appointment of the principal or teacher nominated. In case of a failure or of repeated failures to appoint, other names shall be submitted to the board of education [school board] for its consideration within two weeks after each failure, until an appointment is made. In case of the consolidation of schools or of the discontinuance of any school, principals and teachers of good standing, who thereby may be deprived of employment, shall be preferred in appointments to be made in any of the schools of the city. [Resignations of borough superintendents and of associate superintendents shall be made to the school board.] Resignations of principals and teachers, and of all other members of the teaching staff, shall be made to the [borough] city superintendent.

[Board of education;] Power to fix salaries [; method, regulator].

§ 1091. After the first day of January, nineteen hundred and two, the board of [education] aldermen on the recommendation of the board of estimate and apportionment shall [have power to adopt by-laws] fix[ing] the salaries of [the borough and associate superintendents and] all members of the supervising and the teaching staff; and the salaries of all principals and teachers shall be regulated by merit, grade of class taught, length of service, experience in teaching, or by [such] a combination of these considerations. [as said board may deem proper.] Said salaries need not be uniform throughout the several boroughs, nor in any two of them, nor throughout any one borough. The salaries fixed and estab-

lished and duly payable to members of the supervising and teaching staff on the thirty-first day of December, eighteen hundred and ninety-nine, shall be and remain, after the first day of July, nineteen hundred and one, the salaries of said supervising and teaching staff, unless on or before the said first day of July, nineteen hundred and one, the then existing board of estimate and apportionment shall adopt new schedules of salaries, and said board of estimate and apportionment is expressly empowered to adopt such new schedules. On or before June fifteenth, nineteen hundred and one, the board of education shall submit to the said board of estimate and apportionment such schedules of salaries as in its judgment should be adopted; but nothing herein contained shall be held to limit the discretion of the board of estimate and apportionment in regard thereto. Until the said first day of July, nineteen hundred and one, the salaries now payable by law shall continue to be payable. [Such by-laws shall establish a uniform schedule of salaries for the supervising and the teaching staff throughout all boroughs which schedule shall provide for an equal annual increment of salary of such an amount, that no kindergartner, or female teacher of girls' class other than those teaching grades of the last two years in the elementary schools shall, after sixteen years of service in said schools, receive less than twelve hundred and forty dollars per annum; and no female teacher of a girls' class of the grades of the last two years in said schools shall, after fifteen years of service in said schools, receive less than thirteen hundred and twenty dollars per annum; and no female teacher of a girls' graduating class, female first assistant, or female vice-principal, shall after ten years of service in said schools, receive less than fourteen hundred and forty dollars per annum; and no female teacher of a boys' or a mixed class shall receive less than sixty dollars per annum more than a female teacher of a girls' class of a corresponding grade and of years of service; and no female teacher in said elementary schools shall receive less than six hundred dollars per annum, nor shall the annual increment for any female teacher therein be less than forty dollars; and no male teacher of a class of the grades of the last two years in said schools, shall, after twelve years of service in said schools,

receive less than twenty-one hundred and sixty dollars per annum; and no male teacher of a graduating class, male first assistant, or male vice-principal shall, after ten years of service in said schools receive less than twenty-four hundred dollars per annum; and no male teacher in said elementary schools shall receive less than nine hundred dollars per annum, nor shall the annual increment for any male teacher therein be less than one hundred and five dollars; that no female head of department, or female assistant to the principal in said schools shall receive less than sixteen hundred dollars per annum after ten years of service; and no male head of department or male assistant to the principal in said schools shall receive less than twenty-four hundred dollars per annum after ten years of service; that in high schools and training schools for teachers, no female junior or substitute teacher female laboratory or library assistant, or female clerk, shall receive less than seven hundred dollars per annum, nor after six years of service as such, less than one thousand dollars per annum; no female model teacher shall receive less than one thousand dollars per annum; nor after five years of service as such, less than fifteen hundred dollars per annum; no female regular teacher in said schools shall receive less than eleven hundred dollars per annum, nor after ten years of service as such, less than nineteen hundred dollars per annum; no female head teacher, female assistant to the principal, female first assistant, or female vice-principal in said schools shall receive less than two thousand dollars per annum, nor after five years of service as such, less than twenty-five hundred dollars per annum; no male junior or substitute teacher, male laboratory or library assistant, or male clerk, shall receive less than nine hundred dollars per annum, nor after six years of service as such, less than twelve hundred dollars per annum; no male regular teacher in said schools shall receive less than thirteen hundred dollars per annum, nor after ten years of service as such, less than twenty-four hundred dollars per annum; no male head teacher, male assistant to the principal, male first assistant, or male vice-principal in said schools, shall receive less than twenty-five hundred dollars per annum, nor after five years of service as such, less than three thousand dollars per annum; nor shall any of said persons therein receive a salary less than that to which by reason of experience such person would be entitled as a teacher of the aforesaid elementary schools; pro-

vided, however, that none of the aforesaid members of the supervising and the teaching staff of any of the elementary schools shall receive a salary greater than that fixed for the seventh year of service unless and until the service of any such member shall have been approved after inspection and investigation as fit and meritorious by a majority of the board of superintendents of the borough in which he or she is employed; that none of the aforesaid members of the supervising and the teaching staff of any of the elementary schools shall receive a salary greater than that fixed for the twelfth year of service, unless and until the service of any such member shall have been approved after inspection and investigation as fit and meritorious by a majority of the board of superintendents of the borough in which he or she is employed; that none of the aforesaid members of the supervising and the teaching staff of any of the high or training schools shall receive a salary greater than that fixed for the fourth year of service unless and until the service of any such member shall have been approved after inspection and investigation as fit and meritorious by a majority of the board of superintendents of the borough in which he or she is employed and that none of the aforesaid members of the supervising and the teaching staff of any of the high or training schools shall receive a salary greater than that fixed for the ninth year of service unless and until the service of any such member shall have been approved after inspection and investigation as fit and meritorious by a majority of the board of superintendents of the borough in which he or she is employed; and the respective boards of superintendents of the boroughs shall approve or disapprove the service of the aforesaid members of the supervising and the teaching staff in their respective boroughs within forty days before the date on which said members shall, respectively, become eligible to the increase of salaries conditioned upon the approval of said service. For the purposes affecting such increases of salaries of said persons in any schools, the principal of such school shall have a seat in the borough board of superintendents, with a vote on such fitness and merit; that no female branch principal or female principal of an elementary school having not less than twelve classes shall receive less than twenty-five hundred dollars per annum after ten years of service as such in said schools; and no male branch principal

or male principal of an elementary or a high school having not less than twelve classes shall receive less than thirty-five hundred dollars per annum after ten years of service as such in said schools; and a principal of said schools shall receive an equal annual increment of two hundred and fifty dollars; provided, however, that the service of such principal or branch principal shall have been approved after inspection and investigation as fit and meritorious by a majority of the board of superintendents of the borough in which he or she is employed; and no principal of a high school or training school for teachers having supervision of not less than twenty-five teachers therein shall receive less than five thousand dollars per annum. The board of examiners shall issue to a principal or a teacher who has had experience in schools other than the schools of The City of New York, or in any part thereof previous to the enactment of the Greater New York charter, a certificate stating that the experience of such teacher is equivalent to a certain number of years of experience in the schools of the said city. The board of examiners shall issue to a principal or teacher who has had experience in schools other than the high and training schools of The City of New York, or in any part thereof previous to the enactment of the Greater New York charter, a certificate stating that the experience of such teacher is equivalent to a certain number of years of experience in the high and training schools of the said city. Such certificates made by the board of examiners shall be final and conclusive on all matters pertaining to experience therein stated, and shall entitle their holders to salaries in accordance with the schedules of salaries established in conformity with this section, in like manner as though the years mentioned in such certificates had been served in those schools of The City of New York that are respectively mentioned in such certificates. No salary now paid to any member of the supervising and the teaching staff of any of the public schools in The City of New York shall be reduced by the operation of this section, and the aforesaid equal annual increment for each class or grade of the supervising and the teaching staff of said public schools shall be uniform throughout each class or grade, and each of said persons shall at once receive all the emolument in accordance with the above schedule of minimum salaries to which said person is entitled by reason of merit, of experience and of grade of class taught. The board of estimate and

apportionment is hereby authorized and required to transfer to the general school fund, in addition to any other appropriation which may be available therefor, a sufficient sum of money from any of the unexpended balances, of any appropriations, for any of the departments of The City of New York, to provide the necessary funds for carrying into effect the provisions of this section, including such schedule of salaries for the day and evening schools as the board of education shall by its by-laws establish, for the calendar year nineteen hundred. In case such unexpended balances shall not be sufficient for such purpose, the board of estimate and apportionment is hereby authorized and required to direct the issue of revenue bonds sufficient to provide for any deficiency of funds that shall still exist, in order to carry into effect all the foregoing and following provisions of this section for the calendar year nineteen hundred. All members of the supervising and the teaching staff shall be entitled to and shall receive pay for the calendar year nineteen hundred in conformity with the provisions of this section precisely as though the section had been in effect on the first day of January, nineteen hundred, and for such purpose, this section is hereby declared to be and shall be retroactive to and including the first day of January, nineteen hundred. The words "the supervising and the teaching staff" as used in this section shall not be deemed to include borough and associate superintendents.】

【Board of education】 Public school teachers' retirement fund.

§ **【1083.】** 1092. The board of education is hereby given the general care and management of the public school teachers' retirement fund created **【by this act】** for the former city of New York by chapter two hundred and ninety-six of the laws of eighteen hundred and ninety-four, and of the public school teachers' retirement fund created for the former city of Brooklyn by chapter six hundred and fifty-six of the laws of eighteen hundred and ninety-five, and said funds are hereby made parts of the retirement fund of the board of education of The City of New York, created by this act. The comptroller of The City of New York shall hold **【any】** and invest all money belonging to said fund, and by the direction of said board of education shall pay out the same. The board of education shall have charge of and administer said **【public school**

teachers' retirement fund as it shall deem most beneficial to said fund [and is empowered to make all necessary contracts and take all necessary and proper action and proceedings in the premises] and [to] shall make payments from said fund of annuities granted in pursuance of this act. [and] Said board shall, from time to time, establish such rules and regulations for the administration of said fund as it may deem best; which rules and regulations shall [carefully] preserve all rights inhering in the teachers of The City of New York and the city of Brooklyn as constituted prior to the passage of this act.

[And the comptroller of The City of New York shall report in detail to the board of education of The City of New York, annually, in the month of January, the condition of said fund, and the items of the receipts and disbursements on account of the same.] The [public school teachers'] said retirement fund [herein provided for] shall consist of the following, with the interest and income thereof: (1) All money, pay, compensation or salary, or any part thereof, forfeited, deducted, reserved or withheld from any teacher or teachers in the public schools of The City of New York [for and on account of absence from duty] for any cause in pursuance of rules established or to be established by the board of education. The secretary of the board of education shall certify monthly to the comptroller the amounts so forfeited, deducted, reserved or withheld, from the salaries of teachers during the preceding month. (2) All moneys received from donations, legacies, gifts, bequests or otherwise, for and on account of said fund. [(3) Five per centum annually of all excise moneys or license fees belonging to The City of New York as constituted by this act, and derived or received by any commissioner of excise or public officer, from the granting of licenses or permission to sell strong or spirituous liquors, ale, wine or beer in The City of New York, under the provisions of any law of this state authorizing the granting of any such licenses or permission. The comptroller of The City of New York shall hold such moneys, together with any other moneys belonging to said fund, and by direction of the said board of education shall have charge of and administer the same as hereinbefore in this section provided. (4)] (3) All such other methods of increment as may be duly and legally devised for the increase

of said fund. (4) Such an amount not exceeding one hundred thousand dollars as may be required to bring the surplus in such fund up to one hundred thousand dollars and as may be provided for in the annual budget by the board of estimate and apportionment and the board of aldermen. On and after the passage of this act the board of education shall, by amending its by-laws relating to the excuse of absence of teachers with pay, so provide that the aggregate of the several sums deducted or forfeited on account of absence from duty shall be fully adequate to meet the demands made upon the public school teachers' retirement fund for the payment of annuities as herein provided. Said board of education shall have power, by a two-thirds vote of all its members and after a recommendation to that effect shall have been made by the city superintendent of schools, stating that the teacher is mentally or physically incapacitated for the performance of duty, to retire any female teacher of the public schools, including special teachers in the same, who shall have taught therein during a period aggregating thirty years, twenty of which have been in the public schools of The City of New York, and to retire any male teacher of said schools who shall have taught therein during a period aggregating thirty-five years. [The board of education may, also, in its discretion, retire such teachers upon their own application, after the like period of service.] And the board of education may retire from active service every member of the teaching staff who shall have attained the age of sixty-five years and shall have been engaged in the work of teaching for a period aggregating thirty years in the case of female teachers and thirty-five years in the case of male teachers, twenty of which years shall have been in the public schools of The City of New York. Any teacher or principal so retired shall thereafter be entitled to receive as an annuity one-half the annual salary paid to said teacher or principal at the date of said retirement, not to exceed, however, in any case the sum of one thousand dollars per annum. Any surplus in the retirement fund over and above one hundred thousand dollars shall be transferred into the general fund for the reduc-

tion of taxation. [The said board is hereby given the power to use both the principal and the income of said fund, and to manage, accumulate and otherwise control the same as said board shall provide by its by-laws, and to pay the annuities hereinbefore mentioned, and it shall have power, from time to time, to reduce the amount of annuities of all beneficiaries of said fund, provided only that such reduction shall be at the same rate per centum. None of the provisions of this section shall apply, however, to any teacher in any school in the borough of Brooklyn, who is entitled to any benefit under the fund mentioned in section eleven hundred and nineteen of this act until after his removal from said borough, except that the five per centum of the excise moneys herein provided to be paid into said teachers' retirement fund, shall be apportioned by the board of education among the several boroughs of The City of New York, as now constituted, in proportion to the number of teachers actually employed and the amount of salaries paid to them, in each of said boroughs. When a teacher is transferred to the borough of Brooklyn, a sum equal to one per centum of the amount paid to such teacher during said teacher's service in The City of New York as constituted prior to the passage of this act, since the date on which the public school teachers' retirement fund of Brooklyn was created, shall be paid into the said Brooklyn retirement fund and inure to the teachers' benefit in that fund under the rules governing the same.]

Charges against principal and teachers and others; proceedings thereon.

§ [1114.] 1093. A [member of a] local school board or any member thereof, the city superintendent, an [borough] associate city superintendent or a district [an associate] superintendent, may prefer charges to the [school board] board of education against a principal, a branch principal, a [supervisor,] director, a head of department, or any other officer exercising supervising powers in the schools under their charge, or against a teacher in any of the schools under their charge, for gross misconduct, insubordination, neglect of duty or general inefficiency. Pending trial, the [school board] board of education may suspend said principal or teacher or other officer, with or without pay, and appoint a

substitute in his place. In accordance with by-laws to be passed by the [school board] board of education, a district superintendent [the principal of any school] shall have the like power to suspend a teacher in [his] a school within his district, and shall forthwith report such suspension to the city [borough] superintendent, who shall immediately report it to the board of education [school board]. Pending action by the [school board, the borough] board of education, the city superintendent may appoint a substitute in the place of any teacher so suspended. The [school board] board of education, on receiving notice of charges under the provisions of either of the foregoing paragraphs, shall immediately proceed to try and determine the case, either in the board or by a committee of its body, and shall fix the fine, penalty or punishment, if any, that should be imposed for the offense, and such fine, penalty or punishment shall consist of a fine, in suspension for a fixed time without pay, or in dismissal; provided, however, that a vote of a majority of all the members of the board of education shall be necessary to impose the penalty of dismissal. The report of any committee holding such trial shall be subject to final action by the board, which may reject, confirm or modify the conclusions of the committee, and the decision of the board shall be final, except as to matters in relation to which, under the general school laws of the state, an appeal may be taken to the state superintendent of public instruction. In case the principal or other officer or teacher is acquitted, he shall be restored to his position with full pay for the period of suspension. In all trials authorized by this chapter all testimony taken shall be under oath, which the president of the board of education, chairman of a local school board or chairman of the committee conducting the trial is hereby authorized to administer, and the supreme court shall have power, upon the application of such president or chairman, to compel any witness who may be summoned, to appear and testify before said board of education, local school board or committee.

[Id.]; Annual report to state superintendent of public instruction.

§[1084.] 1094. The board of education shall, between the first day of August and the thirtieth day of September in

each year, make and transmit to the state superintendent of public instruction a report in writing for the state school year ending on the next preceding thirty-first day of July, which report shall be in such form and shall state such facts as the state superintendent and the school laws of the state shall require.

[Id.:] Annual report to mayor; other reports to mayor.

§ **[1085.] 1095.** The board of education shall, between the first day of August and the thirtieth day of November in each year, make and transmit to the mayor of The City of New York a report in writing, bearing date on, and for the year ending with, the thirty-first day of July 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 school shall have been kept open; the amount of public money apportioned or appropriated to said school or society, 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 sources; the manner in which such moneys shall have been expended; and such other information as the mayor may from time to time require in relation to common school education in The City of New York. The board of education shall make such other reports to the mayor as he may call for, and at such times as he shall require.]** stating the whole number of schools under its jurisdiction during the said year, ending on the thirty-first of July; the number of teachers; the total number pupils on register, and the average attendance at each school; the number of high schools and training schools for teachers, with the number of teachers and the attendance of pupils at each; the corporate schools or societies from which reports have been made, as elsewhere prescribed in this act, the length of time such schools have been kept open, and the number of teachers

and of pupils taught in each such school. The board of education shall also between the first day of January and the fifteenth day of February in each year make and transmit to the mayor of The City of New York another report bearing date the thirty-first day of December next preceding stating the total amount of money expended for the purposes of public education in said city during the year ending on said thirty-first day of December. The board of education shall also make in either of said reports such suggestions and recommendations relative to the public schools of The City of New York as it may deem proper.

Removals by mayor after hearing for neglect or misconduct.

§ [1087:] 1096. Any member of the board of education, or of a [borough] local school board, [or any inspector of common schools in The City of New York,] may be removed by the mayor of said city, upon proof either of official misconduct in office, or negligence of official duties, or of conduct in any manner connected with his official duties, or otherwise, which tends to discredit his office, or the school system, or for mental or physical inability to perform his duties [as member or inspector] but before such removal of said member [or inspector] he shall receive due and timely notice in writing of the charges and a copy thereof, and shall be entitled to a hearing on like notice before the mayor, and to the assistance of counsel on said hearing.

[School boards in boroughs] The board of education to cause accounts and records to be made and kept.

§ [1099.] 1097. [The school board shall cause to be kept, in conformity with the by-laws of the board of education, accurate accounts of all moneys received and paid for or on account of the schools in its borough, and it shall not be lawful to expend any money received for use from one of the school funds for purposes provided for in the other school fund, but all expenditures must be made conformable to the purposes for which said funds were levied, collected, apportioned and distributed, and said board shall cause a statement to be entered in said account in conformity with said by-laws, of the movable property belonging to each school.] The board of

education shall provide the proper book or books, in form as required by [said] its by-laws, and shall cause the class teachers under the direction and supervision of the principal [teacher of each school and department] to enter the names, ages and residences of the scholars attending the school, the name of the parent or guardian of each pupil and the days on which the scholars shall have attended respectively, and the aggregate attendance of each scholar during the year, and also the day upon which the school shall have been visited by the city superintendent or by an associate city superintendent or by the [borough] district superintendent, [or by associate superintendents] or by members of the board of education, or by members of the local school board, [or by the inspectors of schools, if such there be in the borough,] or by any of them, which entry shall be verified by such oath or affirmation of the principal [teacher in such school or department] as may be prescribed by the board of education. [The school board] These books shall be, [shall preserve these books] preserved as the property of the school, and [such books] shall at all times be open to access by members of the board of education, by members of the local school boards and by the city superintendent, or by any [borough] associate city superintendent, or [associate] the district superintendents [or any inspector of schools, if such there be in the borough.]

[Id.:] School officers not to be interested in contracts; removal of.

§ [1082] 1098. The board of education shall have power 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, directly or indirectly, out of any school moneys, or who shall have received, from any source whatever, any commission or 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 or imprisonment

in the city prison not exceeding one year, or both, and shall also be ineligible to any school office. The provisions of this section shall not apply to authors of school books used in any of the public schools because of any interest they may have as authors in such books.

Contributions to political funds, etc., prohibited.

§ 1099. Neither the city superintendent of schools, nor any associate or district superintendent of schools, nor any member of the board of examiners, nor any member of the supervising or teaching staff of the department of education of The City of New York, shall be permitted to contribute any moneys, directly or indirectly, to any political fund, or to join or be or become a member of any club or association intended to affect or engaged in affecting legislation increasing their emoluments.

Powers of investigation.

§ [1115] 1100. The board of education [or any school board] may investigate, of its own motion or otherwise, either in the board or by a committee of its own body, any subject of which it has cognizance or over which it has legal control, including the conduct of any of its members or employees or those of any local school board; and for the purpose of such investigation, such board or its president, or committee and its chairman, shall have and may exercise all the powers which [a school board] the board of education has or may exercise in the case of a trial under section [eleven hundred and fourteen] one thousand and ninety-three of this act. Any action or determination of a committee appointed under the provisions of this section shall be subject to approval or reversal by the board [appointing it,] which may also modify the determination of the committee in such way as the board shall deem proper and just, and the judgment of the board thereon shall be final.

Continuation in office of all employees under the public school system [of any part of the territory consolidated].

§ [1117.] 1101. [All superintendents, assistant or associate superintendents,] Except as herein otherwise provided, the city superintendent, the members of the board of exam-

iners, the supervisors (under the title of directors), the directors, and all principals, teachers and other members of the educational staff in the public school system of any part of The City of New York, and all school officers or other employees appointed by the board of education before this act takes effect, including the secretary of the board, the city superintendent of schools, the superintendent of school buildings, the superintendent of school supplies, the auditors, and all deputies, clerks and other employees in their respective offices [as constituted by this act], shall continue to hold their respective positions and to be entitled to such compensation as is now provided or may hereafter be provided by the lawful authority [various school boards,] subject to [the limitations of this act and to] reassignment or to removal for cause, as may be provided by law, and to the right of the said board to abolish unnecessary positions. The secretaries, clerical force and employees of the several borough school boards abolished by this act shall be assigned by the board of education, and the clerical force and the employees of the several borough superintendents and boards of borough superintendents also abolished by this act shall be assigned by the board of superintendents, to positions and duties corresponding as nearly as may be to their respective positions and duties before this act takes effect without prejudice or advantage, provided, however, that nothing herein contained shall be construed to repeal, limit, modify or abridge any provisions of law or civil service regulations relative to the removal of subordinates by public officers or heads of departments, or to affect the right of adding to the duties or reducing the salary of any secretary, clerk or employee and abolishing unnecessary positions. [And all licenses to teach or certificates of qualifications for teaching granted by the superintendent of public instruction of the city of Brooklyn, or by authority of the board of education of the said city of Brooklyn, prior to February first, eighteen hundred and ninety-eight, or recognized by the board of education of the said city of Brooklyn or the state superintendent of public instruction

as in force at that date in said city, shall unless revoked for cause by the state superintendent of public instruction, be recognized by the city superintendent of schools and the board of examiners of The City of New York, as in full force, and shall entitle the holders to appointment or promotion to any position to which they were respectively eligible by the possession of such licenses or certificates. On the first day of February, eighteen hundred and ninety-eight, the city superintendent of schools in the city of New York as constituted prior to the passage of this act, shall be and become the superintendent of schools of the boroughs of Manhattan and The Bronx; and the assistant superintendents of the city of New York as then constituted, shall be and become associate superintendents of the boroughs of Manhattan and The Bronx; the superintendent of public instruction of the city of Brooklyn as constituted prior to the passage of this act shall be and become the superintendent of schools of the borough of Brooklyn; and the associate superintendents of the city of Brooklyn as then constituted, shall become associate superintendents of the borough of Brooklyn. The duties of all these officers, on and after February first, eighteen hundred and ninety-eight, shall be entirely defined and limited by the provisions of this act.】 All persons heretofore transferred 【by this section】 under the provisions of this chapter as originally enacted to the service of the consolidated city who hold office for definite terms, shall be deemed to have been transferred for the remainder of their respective terms only.

School money appropriation by the state to the public schools of the city.

§ 【III8.】 1102. Whenever the city clerk shall receive notice from the state superintendent of public instruction of the amount of moneys apportioned to The City of New York for the support and encouragement of common schools therein, he shall immediately lay the same before the 【municipal assembly】 board of aldermen of said city; and the chamberlain of the said city shall apply for and receive the school moneys apportioned to the said city as soon as the same become payable, and place the same in the city treasury, to the credit of the general fund for the reduction of taxation.

TITLE 2.

*The College of The City of New York.***To continue as a separate corporation.**

§ 1127. The College of 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 statute relative to colleges, and to the visitation of regents of the university, in like manner with the other colleges of the state.

Trustees of college of city of New York; number, appointment.

§ 1128. The board of trustees of said college on and after the first day of July, nineteen hundred, shall consist of nine residents of the city to be appointed as hereinafter provided, of the president of the board of education of the city ex officio and of the president of said college ex officio. Provided, however, that after the president of said college now in office vacates the same, his successor shall not be a member of said board of trustees. Except as herein otherwise provided, the said board shall have and possess the powers conferred upon and be subject to the duties required of the trustees of colleges by the university law. The mayor of The City of New York shall appoint before the first day of June, nineteen hundred, nine persons to serve as such trustees, to hold office respectively as shall be designated by the mayor, for one, two, three, four, five, six, seven, eight and nine years from the first day of July, nineteen hundred. On or before the first day of June prior to the expiration of the term of office of any trustee the mayor shall appoint his successor for a full term of nine years from the first day of July following. The mayor shall fill any vacancy existing in the office of trustee—other than the president of the board of education—by the appointment of a trustee to hold office for the unexpired term. Each trustee so appointed shall take the oath of office required by the constitution of the state

[required by section ten hundred and eighty-eight of this act.]

Any resignation from the office of trustee shall be made to the mayor. No trustee shall be subject to removal under the provisions of section ninety-five of this act, but any trus-

tee may be removed by the mayor upon proof either of official misconduct or negligence of official duties, or of conduct in any manner connected with his official duties or otherwise which tends to discredit his office, or the school system, or for mental or physical inability to perform his duties, but before such removal he shall receive due and timely notice in writing of the charges and a copy thereof, and shall be entitled to a hearing on like notice before the mayor, and to the assistance of counsel on said hearing. The board of trustees shall have power to prescribe by-laws and regulations for the board and for the government of the college, its faculty, instructors and other employees. Such by-laws shall include rules governing the appointment of all officers, members of the faculty, instructors and other employees of the college. A majority of the members of the board appointed by the mayor as aforesaid shall constitute a quorum for the transaction of business and no resolution or act of the board shall be invalid by reason of any vacancy existing in the board, provided that such act or resolution shall be adopted by a vote of five members of the board.

Laws applicable.

§ 1129. All acts of the legislature which were in force on March thirtieth, eighteen hundred and sixty-six, in regard to the free academy, and to its control, management, support and affairs, not since modified or repealed, and which are not inconsistent with the provisions of this act, and all laws in force at the time this act takes effect relative to the College of The City of New York not inconsistent with this act are hereby declared to be applicable to the said college.

Participation in state literature and other funds.

§ 1130. 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 comptroller of The City of New York, as trustee for said college, 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.

Duties of trustees to report.

§ 1131. It shall be the duty of the trustees of said college, annually on or before the first day of September, to report to the board of estimate and apportionment such sum, not exceeding one hundred and seventy-five thousand dollars in any one year, as they may require for the payment of the salaries of the professors and officers of said college for obtaining and furnishing scientific apparatus, books for the students and all other necessary supplies therefor; for repairing and altering the college buildings; and for the support, maintenance and general expenses of said college; and the said board of estimate and apportionment and the [municipal assembly] board of aldermen of The City of New York are hereby authorized and directed in each and every year to raise and collect by tax on the estate, real and personal, liable to taxation in said city, such sum of money, not exceeding the amount aforesaid, as may be reported to them by said trustees; the amount so to be raised and collected to be in addition to the sums required for the purposes of common schools in The City of New York under the act entitled "an act to amend, consolidate and reduce to one act the several acts of the state of New York relative to the common schools of The City of New York," passed July third, eighteen hundred and fifty-one, and the several acts amendatory thereto. Upon the recommendation of the trustees, the board of estimate and apportionment and the [municipal assembly] board of aldermen may increase, from time to time, the amount annually to be raised in the tax levy for the maintenance of the College of The City of New York.

Instruction to be furnished gratuitously by college of The City of New York; degrees and diplomas.

§ 1132. The trustees of said college shall continue to furnish, through the college of The City of New York, the benefit of education, gratuitously, to boys who have been pupils in the common schools of the city, and to all other male students who are actual residents of said city, and who are qualified to pass the required examination for admission to said college. 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.

Reports by trustees to be furnished.

§ 1133. 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 [municipal assembly], 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 money 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 [municipal assembly] board of aldermen or the regents of the university of the state of New York may, from time to time, require.

TITLE 3.

*The Normal College.***The Normal College of the City of New York, a corporation and college.**

§ 1139. The normal college of The City of New York is hereby declared to be a separate and distinct organization and body corporate, and as such shall have the power 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 visitation of the regents of the university, in like manner with the other colleges of the state.

[Id.:] Trustees, powers and duties of trustees.

§ 1140. The members of the board of education of The City of New York, together with the president of the normal college shall be ex officio the trustees of 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.

[Id.:] Laws applicable to; participation in state literature and other funds.

§ 1141. All acts of the legislature now in force with regard to the said normal college, its control, management, support and affairs, not inconsistent with the provisions of this act, are hereby declared to be applicable to said college. The normal college of The City of New York shall be entitled to participate in the distribution of the income of the literature, and other funds of the state 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 comptroller of The City of New York, as trustee for said college, the distributive share of the said funds to which the said normal college of The City of New York shall by law be entitled, and which shall be applied and expended for library books for said college.

[Id.:] Trustees to report annually the amount required to pay salaries, etc.; such amount to be raised by taxation; [municipal assembly] board of aldermen may increase amount named herein.

§ 1142. It shall be the duty of the trustees of said college annually on or before the fifteenth day of October to 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 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, for repairing and altering

the college buildings, and for the support, maintenance and general expenses of said college; and the said board of estimate and apportionment, and the board of aldermen [municipal assembly] of The City of New York are hereby authorized and directed, in each and every year to raise and collect by tax on the estate, real and personal, liable to taxation in said city, such sum of money, not exceeding the amount aforesaid, as may be reported to them by said trustees, the amount so to be raised and collected to be in addition to the sums required for the purposes of common schools in The City of New York, under the act entitled "An act to amend, consolidate and reduce to one act the several acts of the state of New York relative to common schools of The City of New York," passed July third, eighteen hundred and fifty-one, and the several acts amendatory thereto. Upon the recommendation of the trustees, the board of estimate and apportionment and the [municipal assembly] board of aldermen may increase from time to time the amount annually to be raised in the tax levy for the maintenance of the normal college.

[Id.]; Instruction to be furnished gratuitously; degrees and diplomas.

§ 1143. The said board of education, as trustees of said college, shall continue to furnish through the normal college of The City of New York, the benefit of education gratuitously to girls who have been pupils in the common schools of The City of New York as constituted by this act, for a period of time to be regulated by the board of trustees of said college, and to all other girls who are actual residents of said city, and who are qualified to pass the required examination for admission to said college; and the board of 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. The said board of trustees shall give normal instruction in manual training for the purpose of preparing teachers of manual training for the common schools.

[Id.]; Annual reports of trustees.

§ 1144. The trustees of the normal 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 [municipal assem-

bly] 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 last secular day of December next preceding, which report shall state the names and ages of all the pupils instructed in said 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 portions; an account or estimate of the library, philosophical and chemical apparatus and mathematical or other scientific instruments belonging to said college; the names of the instructors employed in said college and the compensation paid to each; what amount of moneys the board of trustees received during the year for the purposes of said college, and from what source, 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 education or the regents of the university of the state of New York may from time to time require.

[Id.]; Money appropriated for, to be expended when required by trustees; contracts by trustees.

§ 1145. The moneys apportioned to the board of education of said city of New York by the board of estimate and apportionment and [municipal assembly] board of aldermen, for the payment of the salaries of the professors and officers of said college, for obtaining and furnishing scientific apparatus, books for the students and all other necessary supplies therefor, for repairing and altering the college buildings, and for the support, maintenance and general expenses of said college, shall be expended for said normal college when required by the trustees of the normal college of The City of New York, with the same right, power and authority as if the said college were under the control of the board of education of The City of New York. All contracts entered into or liabilities incurred

by said trustees involving the expenditure of more than one thousand dollars, except agreements for the payment of salaries, shall be entered into and incurred in the same manner and subject to the restrictions and limitations provided as to other expenditures of public moneys as provided for in this act.

TITLE 4.

General Provisions.

Religious sects and dogmatic books excluded; Bible retained.

§ 1151. 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 or the school board of any borough 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.

Certain private schools authorized to participate in common school fund.

§ 1152. The school established and maintained by the Five Points House of Industry, in The City of New York, the school 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 through the board

of education [school board of the boroughs of Manhattan and The Bronx] in the distribution of the common school fund in the same manner and degree as the common schools in The City 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.

[Id.:] To report as to moneys and attendance.

§ 1153. The board of education shall require from the officers 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 formerly required in The City of New York as constituted prior to the passage of this act from the trustees of each ward. And in making the apportionment among the several schools, no share shall be allotted by the [any school] board to any school or society from which no sufficient annual report shall have been received, for the year ending on the last day of June immediately preceding the apportionment.

Certain additional private schools authorized to participate in school funds.

§ 1154. 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 Watts' Orphans' House, the school connected with the almshouse of said city, the school of the Association for the Benefit of Colored Orphans, the schools of the American Female Guardian Society, the school 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 orphan asylums and industrial schools as existing in the city of Brooklyn at the time of the passage of this act, and the several schools and branches 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 the common schools, passed April eleventh, eighteen hundred and forty-two," or an act to amend the same, passed April eighteenth, 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 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, through the said board [proper school boards] 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.

[Id.:] Accidental omission to report.

§ 1155. 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.

[Id.:] Trustees of such schools may convey to corporation and become merged.

§ 1156. 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 public schools or adopt them as public schools; and the same shall then be public schools, subject to all the rules, duties and liabilities, and enjoy the same rights as if they had been originally established as public schools.

Nautical school to be established.

§ 1157. The board of education is 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 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 purpose above mentioned.

Nautical school; management of.

§ 1158. 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.

[Id.:] Chamber of Commerce to appoint committee to serve as council.

§ 1159. 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.

[Id.]; Expenses.

§ 1160. 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 of New York.

New York Institution for the Blind.

§ 1161. 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.

CHAPTER XIX.

DEPARTMENT OF HEALTH.

- Title 1. Powers and duties of the department, its officers and administration.
- Title 2. Marriages, births and deaths.
- Title 3. Duties of physicians and others.
- Title 4. Legal proceedings and punishment for disobedience of orders and ordinances.
- Title 5. Reimbursement of expenses.
- Title 6. Abatement by suit.
- Title 7. Tenement and lodging houses.
- Title 8. Pension fund.

TITLE I.

Organization, Administration, Authority, Duties and Powers of Department.

The board of health the head of the department of health.

§ 1167. The head of the department of health shall be called the board of health. Said board shall consist of [the president of the board of police,] one commissioner to be called the commissioner of health, the police commissioner and the health officer of the port [and three officers called commissioners of health, who shall be appointed by the mayor, and shall hold their respective offices, as provided in chapter four of this act, as designated by the mayor]. The commissioner of health shall be appointed by the mayor, shall hold office as provided in chapter four of this act, and shall be the president of the board of health. The commissioner of health shall be the executive officer of the health department. The terms of office of the three officers called

commissioners of health, except the president of the board of health, appointed pursuant to the provisions of the Greater New York Charter, shall cease and determine on the first day of January, nineteen hundred and two, and the said president shall thereupon become the commissioner of health.

Authority, duty and powers of the board of health.

§ 1168. The authority, duty and powers of the department of health shall extend over The City of New York, and the waters adjacent thereto, within the jurisdiction of said city, and over the waters of the bay 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 the health officer of the port. It shall be the duty of the department of health to make an annual report to the mayor of The City of New York, of all the operations of the department for the previous year. The mayor may at any time call for a fuller report, or for a report upon any portion of the work of said department, whenever he may deem it to be for the public good so to do. All the authority, duty and powers heretofore conferred or enjoined upon the health departments, boards of health, health and sanitary officers in any of the municipal and public corporations or parts thereof, in any of the territory now within or hereafter to become a part of The City of New York, as constituted by this act, and within the jurisdiction of said city, by chapter seventy-four of the laws of eighteen hundred and sixty-six, and the several acts amendatory thereof, and by any other subsequent laws of this state, and upon the several officers and members of said boards, by the laws constituting and appointing all such departments, boards of health, and sanitary officers and members of said boards, by the laws constituting and appointing all such departments, boards of health, and sanitary officers, and giving and granting to them, or any of them, duties and powers not inconsistent with the provisions of this act, are hereby conferred upon and vested in and enjoined upon, and shall hereafter be exclusively exercised in The City of New York by the department of health, and board of health, created by this act, and by the officers of said board of health and the said department of health, and the same are to be exercised in the manner specified in

said chapter seventy-four of the laws of eighteen hundred and sixty-six, and the several acts amendatory thereof, and by any other subsequent laws of the state relative to health and sanitary matters, and the prevention of pestilence and disease in said city of New York, or in any part thereof, and in conformity with the provisions of this act.

Duty of board as to enforcement of laws; information.

§ 1169. It shall be the duty of said board of health to aid the enforcement of, and so far as practicable, to enforce all laws of this state, applicable in said district, to the preservation of human life, or to the care, promotion, or protection of health; and said board may exercise the authority given by said laws to enable it to discharge the duty hereby imposed; and this section is intended to include all laws relative to cleanliness, and to the use or sale of poisonous, unwholesome, deleterious, or adulterated drugs, medicines or food, and the necessary sanitary supervision of the purity and wholesomeness of the water supply and the sources thereof for The City of New York. And said board is authorized to require reports and information at such times and of such facts, and generally of such nature and extent, relative 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 district; but such reports and information shall only be required concerning matters, or particulars, in respect of which, it may, in its opinion, need information, for the better discharge of its duties in said city of New York and every part thereof. 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. 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. 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 death, 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. 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 officers and 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 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.

Hospitals.

§ 1170. Said board may remove or cause to be removed to proper place, to be by it 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. The board of health is authorized and empowered to erect, establish, maintain, and furnish, upon North Brothers island and in such other places within The City of New York as are now used for such purposes, 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. 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 support from the commissioners of emigration. No person shall remove any person sick with infectious, contagious or pestilential disease from any vessel or other place in said city without a written permit from the board of health.

Repairs of building.

§ 1171. The powers of the board of health 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 its 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 of health shall have and possess full and complete power with reference to the ventilation, drainage and cleanliness of the stands or stalls in or around all 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.

Sanitary code.

§ 1172. The sanitary code which shall be in force in The City of New York the first day of January, nineteen hundred and two, [adopted and declared as such at the meeting of the board of health of the health department of The City of New York, held in the city as formerly constituted and bounded on the second day of June, eighteen hundred and seventy-three, as amended in accordance with law, is] and all existing provisions of law fixing penalties for violations

of said code are hereby declared to be binding and in force in The City of New York [constituted by this act], and shall continue to be so binding and in force, except as the same may, from time to time, be revised, altered, amended or annulled [by the board of health] as herein provided. Provided, however, that so much of this section as declares the sanitary code binding and in force in The City of New York shall not be construed as limiting the storage of fertilizers or the keeping and slaughtering of fowls, cattle and other domestic animals upon premises used for farming in unimproved sections of the city, or as forbidding the ordinary use of country roads in driving such fowls, cattle and other domestic animals. [And it shall be the duty of said board, immediately upon organization under this act, to cause to be conformed to this title the sanitary code of ordinances, adopted by the existing board of health, and the departments and boards of health existing in the several parts of the city of New York before the passage of this act, which shall be called the "sanitary code." Said board of health] The board of aldermen is hereby authorized and empowered, from time to time, to add to and to alter, amend or annul any part of the said sanitary code, and may therein publish additional provisions for the security of life and health in The City of New York, and confer additional powers on [distribute appropriate powers and duties to the members and employees of] the department of health, not inconsistent with the constitution or laws of this state, and may provide for the enforcement of the said sanitary code by such fines, penalties, forfeitures, or imprisonment as may by ordinance be prescribed. The board of aldermen [health] may embrace in said sanitary code [therein] all matters and subjects to which, and so far as, the power and authority of said department of health extends, not limiting their application to the subject of health only. [But no such revision, 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 sanitary 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] Pecuniary penalties for violation of said sanitary code may be recovered in a civil action in the name of the department of health 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. Copies of the record of the proceedings of said board of health, of its rules, regulations, ordinances, by-laws and books and papers constituting part of its archives, and the sanitary code, now or hereafter in force in said city, [and the ordinances of the sanitary code added thereto and adopted by said board of health] when authenticated by its secretary or secretary pro tempore, shall be presumptive evidence, and the authentication 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.

Judicial notice of seal and presumptions.

§ 1173. The actions, proceedings, authority, and orders of said board of health shall at all times be regarded as in their nature judicial, 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. All courts shall take judicial notice of the seal of said board and of the signature of its secretary and chief clerk.

Seal.

§ 1174. The board of health 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.

Publication of reports and statistics.

§ 1175. The board of health may establish as it shall deem wise, and to promote the public good and public service, reasonable regulations as to the publicity of any of the papers, files, reports, records and proceedings of the department of health; and may publish such information as may, in its opinion, be useful, concerning births, deaths, marriages, sickness, and the general sanitary conditions of said city, or any matter, place or thing therein. Said department shall prepare and keep the statistics of tenements and lodging houses, and make semi-annual reports upon the same, and transmit such statistics to the state board of health.

Proceedings relative to dangerous buildings, vessels, places and things.

§ 1176. 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 proofs as it may receive and its proceedings on such hearing, and any other proof it may take; and thereafter may rescind, modify or reaffirm its said declaration and order, and require execution of said original, or of a new or modified order to be made in such form and effect as it may finally determine. 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, is 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 of health 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 of health may have designated, or is not thereafter speedily and fully executed, then any such order may be executed as herein elsewhere provided in regard to any of the orders of said board. And if personal service of any aforesaid order can not be made under this section by reason of absence from said district, or inability to find one or more of the owners, occupants, lessees or tenants of the subject matter to which said order relates, or 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; to be shown by the official certificates of the officer having such order to serve, then service may be made through the mail, or by a copy left at the residence or place of business of the person sought to be served, with a person

of suitable age and discretion, and the expenses attending the execution of any and all such orders respectively shall be a several and joint 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 relation to such business, place, street, property, matter or thing, which said order requires, and said expenses shall also be a lien on all rent, 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. Said board of health, its assignee or the party who has, under its order or that of the police board, acting thereunder, incurred said expense, or has rendered service for which payment is due, and as the rules of said board of health may provide, may institute and maintain a suit against any one herein declared liable for expenses as aforesaid, or against any person, firm or corporation owing, or who may owe, such rent or compensation, and may recover the expenses so incurred under any order aforesaid. [And only one or more of such parties liable or interested may be made parties to such action as the board may elect; but the parties made responsible as aforesaid for such expenses shall be liable to contribute, or to make payment as between themselves, in respect of such expenses and of any sum recovered for such expenses or compensation, or by any party paid on account thereof, according to the legal or equitable obligation existing between them.]

Extraordinary expenditures:

§ 1177. The department of health may use, in compensation of special inspectors, physicians and nurses, and for supplies and contingencies, such sum, not exceeding in the aggregate eighty 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 danger 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.

Declaration of imminent peril.

§ 1178. In the presence of great and imminent peril to the public health by reason of impending pestilence, it shall be the duty of the board of health, 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, to take such measures, and to do and order, and cause to be done, such acts and make such expenditures (beyond those duly estimated for or provided) for the preservation of the public health (though not herein elsewhere or otherwise authorized) as it may in good faith declare the public safety and health to demand, and the 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]** two members of the board of health, and the approval as aforesaid of the mayor. And such peril shall not be deemed to exist except when, and for such period of time, as the board of health and mayor shall declare.

Bureaus.

§ 1179. There shall be two bureaus in the department of health. The chief **[officer]** officers of one bureau shall be called the "sanitary superintendents" **[who]**, and at the time of **[his]** their respective appointments, shall have been, for at least ten years, **[a]** practicing physicians, and for three years **[a]** residents of The City of New York. **[and he shall be the chief executive officer of said department.]** The chief officers of the second bureau shall be called the "registrars 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 to be taken within The City of New York. But in cases of inquests, where the jury shall find that the death was caused by negligence or malicious injury, only a copy of the record need be filed in said bureau.

Offices and expenses.

§ 1180. The board of health may fit up and furnish such offices and such branch offices in each and every borough provided for the department of health in accordance with law, as the convenience of the department, its officers, agents, and employees, and the prudent and proper discharge of the duties of the department may require; and may, subject to the other provisions of this act, make such other 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 department to duly fulfill his engagements or discharge his duty shall cause a forfeiture of the whole, or any less portion of the salary or compensation of such officer, agent or employee, as the rules or practice of the department may provide.

Borough offices to be maintained.

§ 1181. The board of health shall establish and maintain in the boroughs of Manhattan and **[The Bronx,]** Brooklyn, **[Queens, and Richmond,]** offices wherein the business and duties of the department of health shall be performed and discharged under its rules, regulation and control. **[To this end]** The **[board]** commissioner of health shall appoint **[assistant]** two sanitary superintendents, and **[assistant]** two registrars of records, one of each of such officers to be assigned to each of the **[five]** two borough offices above mentioned, and so many of the other officers, clerks, inspectors and subordinates allowed, pursuant to this chapter, as may be necessary to conduct and transact the business of the health department, in each of the **[said]** boroughs into which The City of New York is divided by this act. In such borough offices, the board of health shall preserve the records, files, reports and papers belonging and pertaining to the boroughs in which the office is located. In the general office of the health department in the borough of Manhattan, shall also be preserved and kept, both for record and the use of the board of health, the archives of the department of health, and all the records, books, reports, files and papers belonging and pertaining to the general administration of

the health department, and the business and transactions of the board of health, as well as those which belong to, and have special reference to, the business and transactions, and the discharge of the duties and powers of the health department in the borough of Manhattan. The board of health [may likewise establish such other additional offices as it shall deem necessary for the proper discharge of the duties and powers of the health department in the several boroughs, with such force as may be essential thereto throughout the city as constituted by this act, but] shall always maintain its chief office in the borough of Manhattan.

Delegation of powers.

§ 1182. The board of health and the commissioner of health may from time to time delegate any portion of its or his powers to the sanitary superintendents [or an assistant sanitary superintendent,] to be exercised by such delegates from the time and in the manner, and to the extent specified in such delegation in writing. Provided, however, that this section shall not be construed in restraint of the general power of the board of health to discharge its duties through any and all of its appointees. The department of health shall have a secretary, who shall subject to the direction of the board of health, keep and authenticate the acts, records, papers and proceedings of the department of health, preserve its books and papers, conduct its correspondence, and aid generally in accomplishing the purposes of this chapter. The board of health may designate a clerk to be the chief clerk of the department, and a clerk in each of the offices of the [five] boroughs [above mentioned], in which offices are established, to be an assistant chief clerk, who may perform such duties of the secretary as shall be assigned to him; and papers certified by such chief clerk or by an assistant chief clerk shall be of the same effect as evidence and otherwise as if certified by the secretary.

Duty of sanitary superintendents.

§ 1183. It shall be the duty of the sanitary [superintendent and the assistant sanitary] superintendents, [as each may be directed,] to execute, or cause to be executed, the orders of said department of health and generally, according to instructions, to exercise a practical supervision in respect

to the inspectors, agents, and persons other than the secretary, and health commissioner[s,] and as to the members of the police force, who may exercise any authority under this chapter; and said officers shall devote their services to the aforesaid purposes, as the board of health may, from time to time direct. Each such superintendent shall make reports weekly, or oftener, if directed by the board of health, in writing, stating generally his own action and that of his subordinates, and the condition of the public health in said city, or any portion thereof, and any causes endangering life or health which have come to his knowledge during that period.

Reports of, and inspection.

§ 1184. The sanitary superintendents, [the assistant sanitary superintendents,] the sanitary inspectors and the officers of said department may all visit sick persons, who shall be reported to the department of health as sick of any contagious, pestilential, or infectious disease and report to the department 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 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 chief office of the department of health.

Sanitary inspectors.

§ 1185. The [board] commissioner of health shall appoint and commission at least fifty sanitary inspectors, and shall have power to appoint twenty additional sanitary inspectors, if [it] the board of health deems that number necessary, and from time to time to 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 department, except as herein specially provided; but thirty of

such inspectors shall be physicians of skill and of practical professional experience in said city. The additional sanitary inspectors heretofore duly appointed and commissioned, either in New York city, or in the city of Brooklyn, may be included among the sanitary inspectors mentioned in this section, and may continue to act as such without reappointment, but nothing herein contained shall curtail any of the powers vested in the department of health by this act, and the number of sanitary inspectors for whom provision is made in this section shall be exclusive of the special inspectors for whom provision is made in section eleven hundred and eighty-six and elsewhere in this act. All of the said inspectors shall have such practical knowledge of scientific or sanitary matters as qualify them for the duties of their office. Each of such inspectors shall once in each week, make a written report to said department, 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 of the attention of said department, or such as its regulations may require of him; which reports, with the other reports herein elsewhere mentioned, shall be filed among the records of the said department.

Sanitary engineering service.

§ 1186. The board of health may, from time to time, [engage] employ a suitable person or persons to render sanitary engineering service, and to make or supervise practical and scientific sanitary investigations and examinations in the city requiring engineering skill, and to prepare plans and reports relative thereto.

Badges.

§ 1187. The board of health 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 department, at such times and under such circumstances as the rules and by-laws of said department shall direct.

Examinations and surveys.

§ 1188. The members of the board of health, the health commissioners, the sanitary [superintendent, the assistant sanitary] superintendents, and any of the sanitary inspectors,

and such other officer or person as may, at any time, be, by said board of health authorized, may, without fee or hindrance, enter, examine and survey all grounds, erections, vehicles, structures, apartments, buildings, and every part thereof, and places in the 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 department. Said department may make and publish a report of the sanitary condition, and the result of the inspection of any place, matter or thing in the city, so inspected, or otherwise, as aforesaid, so far as, in the opinion of the board of health, such publication may be useful.

Proofs and affidavits.

§ 1189. Proofs, affidavits and examinations as to any matter under this chapter may be taken by or before the board of health or other person, as the board of health shall authorize; and the commissioner[s] of health, the secretary, the sanitary [superintendent, assistant sanitary] superintendents and any member of said department shall, severally, have authority to administer oaths in such matters, and any person guilty of wilfully answering or testifying falsely therein shall incur all the pains and penalties of perjury.

Suits and service of papers.

§ 1192. Said board of health may sue and be sued in and by the proper name of "The Department of Health 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 suit to which said board of health is a party may be served on the corporation counsel or such assistant as may be assigned by him to the health department.

Attorney.

§ 1193. The corporation counsel shall assign such assistant counsel as may be needful to the department of health, as provided in chapter seven of this act.

Salaries.

§ 1194. The annual salaries to be paid to persons herein named, and 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 in any capacity whatever: To the [president of the board] commissioner of health, seven thousand five hundred dollars; [to the commissioners, other than the president, six thousand dollars each;] to the sanitary superintendents, each five [superintendent six] thousand dollars; to the secretary, five thousand dollars; [to the assistant sanitary superintendents, each three thousand five hundred dollars;] to the registrars of records [four] each three thousand dollars; [to the assistant registrars of records, each three thousand dollars;] to the chief clerk of the department of health, three thousand dollars. [; and to the other clerks and employees regularly employed in the service of the department, the salaries, from time to time, fixed and prescribed for them and their offices respectively, by the board of health.]

Id.; and no fees.

§ 1195. No salary or compensation shall be paid to, or fees demanded by, or expenses ordered to be incurred by any officer, department or agent, or in respect to any service, expenditure, or employment under the authority of any health law, ordinance, regulation, or appointment in said city, unless such salary, expenditure, employment, fees or expense shall be authorized by the department of health; and any officer or agent, employee or servant of the health department demanding or receiving compensation, fees or expenses in violation of this section shall be guilty of a misdemeanor, punishable by imprisonment for a term of not more than one year and by a fine of not more than five hundred dollars, and the forfeiture of his office or position. No municipal body, or other authority, shall create any office 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 health department is by this chapter given control or jurisdiction. Neither the commissioner of health, nor any sanitary superintendent, nor any sanitary inspector shall be permitted to contribute any

moneys directly or indirectly to any political fund or to join or be or become a member of any political club or association intended to affect legislation for or in behalf of the health department or any member thereof, or to contribute any funds for such purposes.

No personal liability.

§ 1196. No member, officer, or agents of said department of health, and no person or persons other than the department of health or the city 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 department, or pursuant to its regulations, ordinances, or 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 department of health or its officers, for which no personal liability may exist, as aforesaid, may maintain a proper action against the city for the recovery of the proper compensation or damage. 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.

Orders of the board.

§ 1197. The board of health, if it shall consider the public health or interests so to require, may execute orders through its own officers or agents, and means to be engaged by the board of health. Whatever expenses said board of health may lawfully and properly incur in the execution of any order, resolution or 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 the fund or other moneys of the department of health.

Execution may be compelled.

§ 1198. All orders duly made by any of the departments of health, or boards of health, or health and sanitary author-

ities or officers, 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, board of health, or sanitary authority 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 by any board of health or sanitary authorities above mentioned, or 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.

Right of inspection.

§ 1199. It is hereby made the duty of all departments, 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 department of health authorized.

Complaint book.

§ 1200. The board of health shall cause to be kept a general complaint book, or several such books, in which [may] shall be entered [by any person, in good faith] any complaint[s] 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 appropriate remedy [as may in good faith be thought appropriate,] and said books shall be open to all reasonable public examination, regulated in all respects as said board may deem proper and for the public service, and the board of health shall cause the facts in regard to such complaints to be investigated, and the appropriate remedy to be applied.

Duties of owners, lessees and occupants.

§ 1201. 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 department 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 a nuisance or be dangerous or prejudicial to life or health.

Police department assistance.

§ 1202. It shall be the duty of the police department and of its officers and men, as said department shall direct, to promptly advise the department of health of all threatening dangers 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 sanitary ordinances, and of the health laws, and all useful sanitary information. And said last-named departments shall, as far as practicable and appropriate, co-operate for the promotion of the public health and the safety of human life in the city. And it shall be the duty of the police department and the police **[board]** commissioner, 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 powers of said board of health, upon the same being received in writing and duly authenticated, as said board of health may direct. And said police **[board]** commissioner is authorized to employ appropriate persons and means, and to make the necessary and appropriate expenditures, for the execution and enforcement of said rules, orders and regulations; and such expenditures, so far as the same may not be refunded or compensated by the means herein elsewhere provided, shall be paid as the other expenses of said board of health are paid. And in and about the execution of any order of the board of health or of the

police [board] commissioner, made pursuant thereto, police officers and policemen shall have as ample power and authority as when obeying any order of or law applicable to the police commissioner [board, or as if acting under a special warrant of a justice or judge, duly issued], but for their conduct shall be responsible to the police [board] commissioner and not to the board of health.

Coroner's returns.

§ 1203. The department 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 department 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 department 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 department of health, written notice of the fact of such call, 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 department, or the sanitary superintendent, shall deem the protection of the public health to demand, it may, so soon as the coroner's jury or physician may 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 removal, and shall have power to cause said orders to be obeyed and executed.

Removal of dead bodies.

§ 1204. It shall be the duty of the department of health 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 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.

Removal of night soil and offal.

§ 1205. 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 of nuisance of a similar kind. The department, bureau, or city officer of authority or authorities who shall from time to time have the management and control of the public docks, piers, and slips in said city, may, with the consent of the commissioners of the sinking fund, designate and set apart for the use of the department of health of said city, suitable and sufficient slips, docks, piers and berths in slips, located as the said department of health may require, and such as should be convenient and necessary for its use in executing the duty hereby imposed upon said department of health, excepting the slips, docks and piers on the East river set apart for the use of canal boats.

Id.; contracts for.

§ 1206. 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 of health, be in its discretion, awarded, of all and each of the provisions of such contracts on his or their part. The place or places of reception and deposit of, and to which such offal, dead animals, night soil and other refuse matter may be conveyed, may, from time to time, be designated, and may be ordered changed by the board of health.

Putrid cargoes may be destroyed.

§ 1210. The board of health, when it shall judge it necessary, may cause any cargo, or part of cargo, or any matter,

or any thing 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 place of deposit of offal, dead animals, and refuse matter, 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 of health.

Paving and draining yards and cellars; filling sunken lots; drainage and maps.

§ 1215. No order for the paving, filling, concreting, draining or regulating of any yards or cellars within the city shall be made except upon reasonable notice to the owner or agent thereof. No order for the filling of any sunken lots within the city shall be made except upon fifteen days' notice to the owner or agent thereof. No order shall be made in any of the cases heretofore mentioned in this section until after a reasonable opportunity to be heard before the commissioner of health has been given to the owner or his agent, and in every such case the board of health shall furnish promptly upon application by the owner or occupant of any lot, building, house or other structure, the name of the sanitary inspector making the complaint. Whenever in the opinion of the board of health the protection of the public health requires the drainage of any lands in the city, by means other than sewers, the said board may make an order describing the location of such lands, and directing the proper drainage thereof, and construction of drains therefor, by the [commissioner or commissioners of the department of said city having jurisdiction to construct sewers in that part of the city] president of the borough where such drainage is so required. The 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 order shall be entered at length in the records of such department of health, and such map shall be filed in said department; a copy thereof shall be filed in

the office of the registrar or county clerk of the county in which the lands are situated. The board of health shall cause another copy of said map, together with a copy of such order, to be delivered to the **[commissioner or commissioners of the department of said city]** president of the borough, where such drainage is required, who shall, by such order be required to construct such drains, and the said **[commissioner or commissioners of said department]** president, with whom a copy of the said map and order shall be so filed, shall immediately thereafter have the power, and **[said department]** is hereby directed to make and adopt proper and suitable plans for the construction of such drains.

Acquisition of rights in lands.

§ 1216. It shall be the duty of such **[department]**, borough president, upon the receipt of such map and order, and immediately after **[it]** he has made and adopted suitable plans for such drains, through the corporation counsel 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 corporation counsel immediately to take such proceedings and conduct them to a speedy determination.

Id.; proceedings therein.

§ 1217. 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 borough president **[department]** charged with the construction of the drains and shall be prepared

and made by surveyors in the regular and stated employment of such borough president [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, and their necessary disbursements for clerical services in carrying out the provisions of this section, which clerical expenses shall not exceed the sum of two hundred and fifty dollars, and also for advertising, printing or posting any notices required by law, and for any other necessary incidental expense a sum, not exceeding one hundred dollars, shall be included in the assessment that may be made by such commissioners of estimate and assessment. The corporation counsel shall not be entitled to any compensation for services to be rendered by him in such proceeding other than his stated salary. The commissioners 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 two hundred and fifty dollars.

Id.; confirmation of report of commissioners, construction and taxation.

§ 1218. Upon the confirmation of the report of the commissioners of estimate and assessment by the court, the [commissioner of the department in said city having the charge of the construction of such drains, as herein proposed,] president of the borough within which such lands are located shall have the power, and he is hereby directed to immediately make and construct said drains. The necessary cost of such drains, together with necessary expenses of levying the assessment therefor, shall be levied, assessed and collected, as provided by section one hundred and seventy-nine of this act.

Measures to prevent the spread of disease.

§ 1219. 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 inclosed, if it shall deem the public safety requires it, and to adopt suitable measures for

preventing all persons from going to any part of the city so inclosed.

2. To forbid 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.

Id.; proclamation.

§ 1220. The board of health may issue a 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 the said board 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 this city. The board of health may in its 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 its prohibition 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 said board shall direct. 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.

Vessels removed.

§ 1221. The board of health shall also possess and may exercise the following powers:

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 said board 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 order, certified by the secretary of said department, 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 order shall be delivered shall forthwith comply with the same.

2. By order to direct to be removed to a place to be designated by the board of health, all things within the city, which, in its opinion, shall be infected in any manner likely to communicate disease to the inhabitants.

Violation of orders, punishment for.

§ 1222. Every person who shall violate, or neglect, or refuse to comply with any provision contained in any of the [preceding] last three sections, or in the orders made 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. Any violation of the sanitary code 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 name of the department of health of The City of New York.

Service of orders.

§ 1224. 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 a 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 department, or one of the department, 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 of such buildings, or parts thereof, or of the subject-matter to which such order relates.

Vaccination.

§ 1225. For the purpose of more effectually preventing the spread of smallpox by the thorough and systematic vaccination of all unvaccinated persons, and for the relief of persons suffering with diphtheria and other infectious diseases residing in said city, the board of health is hereby empowered to continue or organize a corps of vaccinators and of physicians, 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 produce diphtheria antitoxine and other antitoxines, and add to the sanitary code such additional provisions as will most effectually secure the end in view. Said board of health may take measures, and supply agents and offer inducements and facilities for general and gratuitous vaccination, disinfection, and for the use of diphtheria antitoxine, and other antitoxines, and may afford relief to and among the poor of said city as in its opinion the protection of the public health may require.

Sale of lymph and antitoxine.

§ 1226. Whenever the amount of vaccine lymph, or virus collected by the said corps, or of diphtheria antitoxine, and other antitoxines produced, 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, and diphtheria antitoxine, and other antitoxines at reasonable rates, to be fixed by the board of health. The avails of such lymph or virus, and diphtheria antitoxine, and other antitoxines, shall be accounted for and paid to the chamberlain. [and shall be set apart and constitute distinct funds, to be known respectively as "the fund for gratuitous vaccination," and "the antitoxine fund," and they shall be subject to the requi-

sition of the board of health for the purposes named in the preceding section.】

Extension of proclamation period.

§ 1228. 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, or designated periods of time, ought to be extended, the said board of health shall issue its proclamation extending such provisions to such a time as shall be determined on, and such provisions shall thereupon be extended accordingly and with the like effect as if the periods mentioned in such proclamation, had been originally 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 of health, by a new proclamation declaring that fact, may revoke the proclamation issued pursuant to this section, which shall then cease to have effect.

Definitions.

§ 1229. The word nuisance, as used in this act, 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 act, 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. Whenever the words "place, matter, or thing," or either two of said words, are used in this act, or in titles one, 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.

TITLE 2.

Marriages, Births and Deaths.

Persons solemnizing marriages to keep a registry.

§ 1236. 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.

Births to be reported.

§ 1237. 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 ten days after such birth, to report to the department of health, in writing, so far as known, the date, borough 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 within ten days to the department of health.

Deaths to be reported.

§ 1238. 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 persons occupying or living in any house or premises in or on which any person may die], to report, in writing, to the department of health, within five days after such death, the age, color, nativity, last

occupation and cause of death of such deceased person, and the borough 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 same can be ascertained, the name and surname, age, occupation, term of residence in said city, place of nativity, condition of life; whether single, married, widow or widower; color, last place of residence and 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.

Penalty for failure to report marriages and births to the department of health.

§ 1239. 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 department of health, within ten days after any birth or marriage provided to be registered, and for every omission to make the report of any death, birth or marriage, the person guilty of such omission shall be guilty of a misdemeanor; and, in addition thereto, the offender shall also be liable to pay a fine of one hundred dollars, to be recovered in the name of the department of health of The City of New York, before any justice or tribunal in said city having jurisdiction of civil actions. But no person shall be liable for such fine, or subject to arrest and imprisonment for not making the report herein required, if such report has been made by any other person, or if an excuse is presented to the [board] commissioner of health for such omission which the said [board] commissioner shall decide to be sufficient, in which event the said [board] commissioner of health is hereby empowered to excuse the said omission.

Record of births, marriages and deaths.

§ 1240. The department 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 department; 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 department shall perform all the duties of this section imposed, as a part of its regular duties, and no fees shall be demanded or received by reason thereof.

Registration of births not previously recorded.

§ 1241. 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 records of the health department of said city, in a special book, to be kept for such purpose, upon the application in such behalf by the parents or guardians of such children. Such application shall be made to the [board] commissioner 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] commissioner of health. Transcripts of any record in said bureau of records may be given, in the discretion of the department of health, to a parent or the next of kin of any 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 department of health. Transcripts of these records when required shall be on such forms as the [board] commissioner of health may prescribe, and for them the usual fees for copies of records may be received.

TITLE 3.

Duties of Physicians and Others.

Report of pestilential, infectious and contagious diseases; deaths.

§ 1247. It shall be the duty of each and every practicing physician in The City of New York:

1. Whenever required by the department of health to report to said department, at such times, in such forms and in reference to such diseases as said department 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 department every patient he shall have laboring under any such 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 department 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.

Affidavit may be required.

§ 1248. The department of health may require of any physician not less than three hours after service of a demand thereof

upon him, an affidavit, stating therein whether he has or has not any patient, who, in his opinion, shall then be sick of such a pestilential, contagious or infectious disease, and if he has any such patient, to state in such 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.

Penalty for failing to report.

§ 1249. Every practicing physician who shall refuse or neglect to perform the duties enjoined on him by the foregoing section 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 visiting, hospital and consulting physician, to make an immediate report to the department of health of the name of every practicing 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 department shall order him to be suspended from any office he may hold, and he shall, moreover, be liable to such further penalty and to such prosecution for his violation of this law and of his duty as the board of health shall determine.]

Boarding and lodging-house keepers may be required to report.

§ 1250. Every person keeping a boarding or lodging house in the city, shall, whenever required by the department of health, report, in writing, to the department the name of every person who shall be sick in his house within twelve hours after each case of sickness shall have occurred.

Masters, etc., of vessels to report.

§ 1251. Every master, owner or consignee of a vessel lying 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 of such vessel; and no person shall be removed therefrom without a written permit for that purpose from the department of health.

TITLE 4.

*Legal Proceedings and Punishment for Disobedience of Orders and Ordinances.***Order for examination before justice of supreme court.**

§ 1257. Any justice of the supreme court of the first or second department, or who is holding court or chambers therein, upon the written application of the [board] commissioner of health, 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, provided it shall appear to the satisfaction of said justice or court that any matter or point affecting life or health is involved; 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 justice, and with any copies of books or papers, to be delivered to said health department for the use of said department. 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 justices, as well as that one who made said order; and in and about the same, every such justice 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 justice of 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 as to which the [board] commissioner of health requests the examination to take place, and the justice 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 justice may be made, and the same

proved in the same manner as the service of either an injunction or of a subpoena. And it shall be the duty of said justice to facilitate the early determination of the aforesaid proceedings.

Appearance and examination of witnesses.

§ 1258. Upon the application of any party in interest in any matter pending examination before said department 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 department of health, or any person taking or about to take such examination, at some time or times and place to be stated in the 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, 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.

The health department as party plaintiff and defendant.

§ 1259. In all actions and proceedings heretofore commenced and now pending, against either of the cities of New York, Brooklyn or Long Island City or the town authorities and public officers in Kings, Richmond counties and the part of Queens county, now to form a part of The City of New York, or against the department of health, board of health or sanitary officers in any part of said territory, in which any action, order, regulation, ordinance or proceeding of any of the health departments, boards of health or sanitary officers thereof, is called in question or made the subject of the action or proceeding, the department of health of The City of New York shall have the right to appear, answer and take part; and in all such actions and proceedings hereafter commenced the said health department shall be a necessary party, and have the right to appear and to take part therein. The said department may institute and maintain all suits and proceedings

which are reasonable, necessary and proper, to carry out the provisions of the laws under which the said department acts, and may sue and be sued by the proper name of the department of health of The City of New York.

Injunctions when not to be granted against department.

§ 1260. No preliminary injunction shall be granted against the department of health, or its officers, except by the supreme court, at a special [or general] term thereof after service of at least [eight] five 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 department 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.

Proceedings presumed legal.

§ 1261. In all judicial proceedings the actions, proceedings, authority, and orders of said department shall at all times be regarded as in their nature judicial, and be treated as prima facie just and legal. In any suit, the right of said department or the police department to make any order, or cause the execution thereof, shall be presumed.

Violation of department orders, actions for.

§ 1262. Whoever shall violate any provisions of this chapter, or any order of said department made under the authority of the same, or by any law or ordinance therein referred to, or shall obstruct or interfere with any person in the execution of any order of said department, or any order of the police department in pursuance or execution of the orders of the department of health, or wilfully omit to obey any such order, shall be guilty of a misdemeanor, and be liable to be indicted and punished for such 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 board of health or department of health, was exercised by any other board of health, 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 wilful omission or refusal of any individual, corporation, or body to conform to any regulation of said department duly made for the protection of life or the care, promotion, or preservation of health, or the carrying out of 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 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 wilfully done or omitted any act or thing which is, in this chapter, or by any law or ordinance, or the sanitary code 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 department 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 department 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 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 department or [its assignee, or the assignees of] by the police department 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 an ordinance, code or sanitary ordinances, or regulation of said department; nor shall any court lose jurisdiction of any action by reason of a plea that title to real estate is involved, provided the defendant is sought by the pleadings to be charged in said action on any of the grounds mentioned in this chapter, other than by virtue of ownership of such real estate. In respect to all proofs and proceedings by said department, or its agents or officers, under this chapter, papers filed shall be deemed entered upon or in the minutes of the department.

Arrests for violation of rules.

§ 1263. The board of health having first entered on the minutes of department of health, or filed in its records, what it may regard as adequate proof of a violation or resistance by any persons in said city, of any law, or ordinance, the authority relating to which is given to said department, or of any order made by said board or said department, may order, by warrant, under its seal and attested by the signature of its 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 said order of arrest.

Id.; by member of police force or officer of department of health.

§ 1264. Any member of the police force, and every inspector or officer of said department of health, as the regulations of either of said departments 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 department of health, or who shall, in such presence, resist or be engaged in resisting the enforcement of any of the orders of said department or of the police department pursuant thereto. And any person so arrested shall be thereafter treated and disposed of as any other person duly arrested for a misdemeanor.

Id.; upon complaint of magistrate, trials, fines, etc.

§ 1265. Upon the complaint of any citizen of the city, against any person for violation of any rule, sanitary regulation, ordinance, or order, made to any magistrate having jurisdiction in criminal cases, such 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 the department of health. And upon an application in behalf of said department 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 punished in the same manner as is provided for the punishment of persons found guilty of a misdemeanor. Reports of all such trials, and of fines imposed for violations of this chapter, or the sanitary code, shall be made monthly to said department, by the justices before whom trials are 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.

False returns and deceptive reports, how punished.

§ 1266. If any person shall knowingly make to said department 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 department of health shall knowingly make to said department 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, punishable by imprisonment of not more than one year or by a fine of not more than five hundred dollars and, if an officer or employee of the department, by the forfeiture of his office, rank or position, 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 department.

False personation as an officer of department, penalty.

§ 1267. 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 of or under the authority of 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.

Boarding and lodging-house keepers and masters of vessels.

§ 1268. Every keeper of a boarding or lodging-house, and every master, owner, or consignee of a vessel who shall refuse or neglect to obey the orders and directions of the department of health, as provided by this act, 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.

Officers and magistrates to act promptly.

§ 1269. It shall be the duty of all prosecuting officers of criminal courts, and city magistrates 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 department, 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.

Joint and several liability of owners, lessees and occupants of property and assignment of claims for expenses of execution of orders thereon.

§ 1275. It is hereby declared to be the duty, of which there shall be a joint and several liability 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 sewer-

age, 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, subject to the ordinances of the sanitary code and the orders of the [board] department of health. [Any claim for expenses consequent upon the execution of an order of the board of health, occasioned by a violation of said duty above declared and set forth, may be assigned by the board of health to any person not an officer of the health department, who shall execute such order and perform the required work.]

On what expenses to be a lien.

§ 1276. The expenses attending the execution of any and all orders duly made by the [board] department of health 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 cleaning, or removal, of any matter, thing, or place, the failure to do which by the party bound so to do, or doing of the same in whole or in part by order of said department, was the cause or occasion of any such order or expense.

Suit for expenses.

§ 1277. Said department of health, [its assignee, or the party who has under its order, or that of the police department, acting thereunder,] in case it has incurred any expense, or has rendered service for which payment is due, and as the rules of said department 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 [owning], 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 department 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.

Expense of executing orders to be a lien.

§ 1278. The said department, [its assignee, or any person acting under its authority, in executing any order of said department,] 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 department [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 as 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 department, 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 mechanics' 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' liens; and unless within [two] six months after actual notice of such filing, proceedings are taken by the party against whom or whose said property a 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 proceeding shall result in a judgment for the amount claimed in such statement, or any portion thereof, such judgment shall, to such extent, be a lien in the same manner, and from the same time as said statement.

Statement of expense of executing orders [to be published].

§ 1279. When the department [board] of health shall, through its own officers, and men and means have executed, or so far executed as said department may require, any order, 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 department with the order so executed; and said department 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 department [board] of health or its authorized officer may direct; [and the correctness of such apportionment of expenses, as stated in any such affidavits, shall not be called in question or reviewed elsewhere than before said board]; and [but] said department [board] may revise the correctness of such apportionment of expenses [and correct the same,] as truth and justice may require. Whenever the expenses attending the execution of any order of said department [board] of health may be made the subject of a suit by said department, [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 violation of any provisions of this chapter, or for the violation or omission to perform or obey said order, or any

prior order of said department, 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 department 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 or 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 from the cleaning of any street, place, ground, or thing, or for the cleaning 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 department, was the cause or occasion of any such charge 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, proceedings may be taken as follows:

1. The department of health [, or any person owning any such judgment, or the claim for any such expenses, or having a right to receive payment therefor,] may serve a copy of the order under or by reason of which such expenses were authorized or incurred with a copy of any affidavit stating the expenses of the execution of such order, or if the claim be a judgment, may serve a transcript of such judgment and any affidavit showing the expense of its execution if there be any, upon any person or corporation owing, or who is about to owe any 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 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 for any such judgment or expense in executing the same shall, when such rent or compensation becomes due and payable, be paid to the department of health.

2. After the service of the papers aforesaid and such demand, any tenant, lessee, occupant, or other person owing, or about to owe, any such rent or any such compensation shall, when such rent or any such compensation shall mature, or become payable, pay the same, and from time to time pay 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 said department of health, and a receipt shall be given therefor, stating on account of what order or judgment and expenses the same has been paid and received; and the amount so received shall be deposited where other funds of said department are kept, to the special account of such department.

3. Any person or corporation refusing or omitting, as herein directed, to make such payment to the department of health, after service of the paper and demand aforesaid, as herein required, shall be personally liable to said department of health [or to the party owning any such claim for expenses or judgment, if not belonging to said department,] for the amount that should have been paid to said department according to the provisions hereof, and may by such [party or] health department be sued therefor; and such persons shall not in such suit, dispute or call in question the authority of said department of health to incur, or order such expense, [or of its assignee therein], or the validity or correctness of such expenses or judgment in any particular, or the right of the said department [party making such demand, or his assignee,] to have the same paid from such rent or compensation. But the receipt of such department for any sum paid 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, and of said demand, have been entitled

to receive the sum so paid. 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 department of health, or any part thereof.

Department to retain moneys till twelve days after notice.

§ 1280. The said department of health shall retain money so paid until twelve days after it shall be made to appear to said department 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; 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 it shall, by said department, be paid to the city chamberlain. [any person who may own or have the right to recover the amount of the judgment or the claim for expenses, or so much thereof as the party may be entitled to, or on account of which the money was paid to said department, and after such payment the party or parties aforesaid, 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, 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 department had not jurisdiction to order the expenses aforesaid, on account of which the money was so paid, or on which any such judgment was obtained, and in case of a recovery in such suit it shall be only to the extent that such parties were not so liable, and in such suit any person or persons who may have received said money from said department, or said department shall, by the plaintiff, be made a party defendant; and if the plaintiff shall recover such money, or any part thereof, said department 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 department of health.】

TITLE 6.

Abatement by Suit.

Nuisance defined.

§ 1287. A wilful omission or refusal of any individual, corporation, or body, to forthwith abate any nuisance, as ordered by a resolution of the board of health, duly served upon them, pursuant to the provisions of this act, or to conform to any ordinance of the sanitary code or any sanitary regulation of said board, duly made for the protection of life, or the care, promotion, or preservation of health, pursuant to its power or authority, shall be a misdemeanor, and the person or officers guilty thereof shall be liable to indictment and punishment as for a misdemeanor. In addition thereto every person, body or corporation that shall violate or not conform to any ordinance of the sanitary code, or any rule, sanitary regulation or special or general order of said board, duly made, shall be liable to pay a penalty not exceeding fifty dollars for each offense, which may be sued for and recovered by and in the name of said department of health, with costs, before any justice or tribunal in said city of New York having jurisdiction of civil actions.

Suits to abate nuisances.

§ 1288. For the abatement or remedying any of the nuisances mentioned or declared in this chapter or by the board of health pursuant to the authority devolved upon and conferred upon it by this act, the 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 at law or in equity. And all costs collected in any such action or proceeding shall be paid over to the department and accounted for by it. 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.

Id.; trial thereof.

§ 1289. Such suit shall be tried [as an issue of law and,] by the court 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 as a preferred case; and when moved 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 to proceed therewith) 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.

Id.; judgment; what to contain.

§ 1290. 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 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 department of health, or the execution of such judgment should be made by said department or under its direction, said judgment shall contain the appropriate directions in respect to such last-named payment or execution. 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.

Lien of judgment; how removed.

§ 1291. Any person prejudicially affected by the lien of any such judgment may, on [eight] five days' notice to said department, 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] five 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 the board of health, or its counsel, shall, in writing, consent to the discharge of the last-named lien, as to any or all property referred to, or as to one or more defendants, then said judge may order said lien discharged of record by the proper officer, to the extent and as to the person or persons that the order shall specify; and it shall be so discharged; and such order and the moving papers shall be filed with the proper clerk; as the judge may direct.

Appeals and stays.

§ 1292. 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, or some other judge of the same court, shall, on the settling of the judgment, or on motion, on four days' notice to said department of health, [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 by reason of any damages or consequences growing out of the execution of said 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] thirty 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, order a stay as to the execution of the judgment, but only for the period of the said [ten] thirty days, and within said period of [ten] thirty days an undertaking or security on appeal must be filed, of the form and obligation required in ordinary appeals from judgments, but also to be conditioned for the payment of the appellant's adjudged share of the expenses of executing such judgment, or if not estimated in said judgment, as the judge, on application and three days' notice to said department, shall estimate the same, in conformity with the judgment, for the purpose of such security on appeal. But the execution of any judgment against the defendants shall not be delayed beyond [ten] thirty 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. The judgment may state the estimated expense that will have to be paid by any party toward executing said judgment; but the board of health may appeal in any such case, or any case to which the health department is a party within [ten] thirty 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 part of the judgment in respect to which said department appeals.

Claims for penalty may be joined in abatement suits.

§ 1293. In any such abatement suit said department 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 ordinance of the sanitary code or any order of the department 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 the appellate division of the court, and to be heard therewith.]

Judgment of appellate division; what to contain.

§ 1294. The judgment of the appellate division, 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 department, as the appellate division may adjudge. There may be an appeal from the appellate division to the court of appeals, in such abatement suit, and therein the provisions hereof as to appeals from the judgment to the appellate division, and as to the security on appeal, shall in all particulars, including the length of time given in which to take an appeal, apply, except that no undertaking on its appeal is necessary on the part of the department of health, 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.

Statement of expense of execution.

§ 1295. Upon the execution, in whole or in part, of any such judgment, if said department 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 department, 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 department, [or to the person who, as assignee, or by order, executed such

judgment or is entitled to payment of such expenses, in case it was not executed by said department,] of a motion, and serve therewith copies of affidavits to correct such statement in particulars to be mentioned, and separately and clearly stated in such affidavit, such statement aforesaid shall be, in all suits, and proceedings, and tribunals, and at all times, deemed and taken to be final, conclusive and correct; and no formal defect in such statement shall in any wise vitiate the same. And on any hearing of such motion, [any party in interest, or] said department may read affidavits in support of such original statement; and the finding of any judge on the hearing of such motion, as 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. In so far as any judgment may be directed to be executed at the expense of said department 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 department of health, in and about the execution of such judgment, then the said latter expenses of said department may be embraced in said statement and finding, and collected by execution as aforesaid.

Execution thereupon.

§ 1296. 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 department [or any assignee of such department, 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 application ex parte, to a judge of the court in which the 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 specially 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, other than those authorized for collecting such expenses, to be issued in due course of law.

Injunction may be granted in abatement suits; requisites.

§ 1297. 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, by the board of health, 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 chapter 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 rent

thereof, or compensation therefor, due or to grow due to the health department, and said department to collect and receive and apply said rent to the payment of 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 person; all such collections and payments to be made in such manner, to such extent, and on such conditions as the court shall by order or judgment provide; and every such payment to said department, 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 the 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 department 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 advanced and brought to a speedy trial, and before it would otherwise be reached by trial or argument in due course on the calendar, as the judge or court may by special order direct.

Expenses of department of health to be paid out of its funds.

§ 1298. Whatever expenses said department 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 appropriated to such purpose or to its use.

TITLE 7.

Tenement and Lodging-Houses.

Construction generally; halls and windows, etc.

§ 1304. Every house, building, or portion thereof, in The City of New York, used, occupied, leased or rented for a tenement or lodging-house must conform in its construction, appurtenances and premises to the requirements of this title; and its use and occupation shall be regulated subject to the ordinances of the sanitary code, applicable thereto, and the orders of the board of health duly made, pursuant to its authority, duty and powers conferred and enjoined upon it in this chapter. If occupied by more than one family on a floor, and if the halls do not open directly to the external air, with suitable windows, without a room or other obstruction at the end, it shall not be used, occupied, leased or rented, unless sufficient light and ventilation is otherwise provided for in said halls, approved so far as relates to construction by the bureau [department] of buildings, and if the building be completed, approved so far as relates to health and sanitary conditions, by the board of health.

Definitions.

§ 1305. A tenement-house within the meaning of this title shall be taken to mean and include any house or building, or portion thereof, which is rented, leased, let or hired out, to be occupied, or is occupied as the home or residence of three families or more living independently of each other, and doing their cooking upon the premises, or by more than two families upon any 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.

Roofs and stairs and fire-escapes.

§ 1306. 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. Every such house shall be provided with a proper fire-escape, or means of escape in case of fire, to be approved by the bureau [department] of buildings.

Sleeping-rooms; ventilation.

§ 1307. 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 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 bureau [department] of buildings.

Water-closets, privies and sinks.

§ 1308. Every tenement and lodging-house or building shall be provided with as many good and sufficient water-closets, improved privy sinks, or other similar receptacles, as the department of health shall require, but in no case shall there be less than one for every fifteen occupants. The

water-closets, sinks, and receptacles, shall have proper doors, soil pipes, and traps, all of which shall be properly ventilated to prevent the escape of deleterious gas and odors, soil pans, cisterns, pumps and other suitable works and fixtures, necessary to insure the efficient operation, cleansing, and flushing thereof. Every tenement or lodging-house situated upon a lot on a street or avenue in which there is a sewer, shall have a separate and proper connection with the sewer; and the water-closets, sinks, and other receptacles shall be properly connected with the sewer by proper pipes made thoroughly air-tight. Such sewer connection, and all the drainage and plumbing work, water-closets, sinks and other receptacles, in and for every tenement and lodging-house shall be of the form, construction, or arrangement, location, materials, workmanship and description as may be required by the rules and regulations of the bureau [department] of buildings of The City of New York. Every owner, lessee and occupant shall take adequate measures to prevent improper substances from entering such water-closets, or sinks, 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 and prejudicial to life or health, and so as to prevent the same from being or becoming obstructed. Every person who shall place filth, urine or fecal matter in any place in a tenement-house other than that provided for the same, and every person who shall keep filth, urine or fecal matter in his apartment or upon his premises such length of time as to create a nuisance shall be guilty of a misdemeanor. No privy, vault or cess-pool shall be allowed in, under, or connected with any such house except when it is unavoidable, and a permit therefor shall have been granted by the department of health, and in such case it shall be constructed in such situation and in such manner as the bureau [department] of buildings 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 closet, sink or privy. In all cases where a sewer exists in the street or avenue, upon which the house or building stands, the yard or area shall be connected with the sewer, so that all water from the roof or otherwise, and all liquid

filth shall pass freely into the sewer. Where there is no sewer in the street or avenue, or adjacent thereto, with which connection can be made, the yard and area shall be so graded that all water from the roof or otherwise, and all filth shall flow freely therefrom into the street gutter, by a passage beneath the sidewalk, which passage shall be covered by a permanent cover, so arranged as to permit access to remove obstructions or impurities.

Cellars and basements of tenement-houses not to be occupied for living purposes, except in certain cases.

§ 1309. It shall not be lawful, without a permit from the [department] bureau of buildings, to construct, during the erection of a tenement or lodging house, nor after the completion of such tenement or lodging house, any room or rooms in any basement or cellar to be occupied wholly or in part as a dwelling, nor shall it be lawful without a permit from the department of health to let, 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, basement, or room wholly or in part underground, 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 two feet 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, room, or basement, and extending along the entire frontage thereof, and upwards from six inches below the level of the floor thereof up to the surface of 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 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. 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 hereinbefore provided, and if the said back 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. In any area adjoining a vault, cellar, underground room, or basement, 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 rooms, 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.

Cellars and vaults not to be used for sleeping-rooms.

§ 1310. 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. No wall paper shall be placed upon a wall or ceiling of any tenement or lodging-house, unless all wall paper shall be first removed therefrom, and said wall and ceiling thoroughly cleansed. Every tenement or lodging-house, and every part thereof, shall be kept clean and free from any accumulations of dirt, filth, garbage or other matter in or on the same, or in the yard, court, passage, area or alley connected with it, or belonging to the same. The owner or keeper of any lodging-house, and the owner or lessee of any tenement-house or part thereof, shall thoroughly cleanse all the rooms, passages, stairs, floors, windows, doors, walls, ceilings, privies, cesspools and drains of

the house or part of the house of which he is the owner or lessee, to the satisfaction of the department of health, so often as he shall be required by or in accordance with any order of the board of health and any regulation or ordinance of said department, and shall well and sufficiently, to the satisfaction of the said health department, whitewash the walls and ceilings thereof once at least in every year.

Transoms, windows, doors, etc.

§ 1311. All transoms, windows, doors and other openings leading into halls, or into rooms opening into halls, from bakeries or places of business, in which fat is boiled in the basements, cellars or on the first floors, of all tenement-houses in The City of New York, shall be solidly closed with the same material as the walls or partitions in which the opening exists, so that there shall be no opening between said bakeries, or other places of business of said floor in which fat is boiled, and the other parts of the tenement-house in which the same shall be situated. All transoms and windows opening into halls from any portion of said floor of any tenement-house where paint, oils, spirituous liquors or drugs are stored, or kept for the purpose of sale, or otherwise, shall be glazed with wire glass, or they shall be removed and closed up as solidly as the rest of the wall; and all doors leading into such hall, or room from such portion of said floor, of said tenement-house used as aforesaid, shall be made fireproof.

Certain occupations and business prohibited in tenement-houses.

§ 1312. Every tenement or lodging-house shall have the proper and suitable conveniences or receptacles for receiving garbage and other refuse matters. No tenement or lodging-house or premises, 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 or on the premises thereof. No bakery or place of business in which fat is boiled shall be maintained in any tenement-house which is not fireproof, or where the ceiling and side walls of place, where said fat boiling is done, are not made safe by fireproof material around the same, except by permit of and under such conditions as may be prescribed

by the fire department; no part of any tenement-house shall be used for the storage of feed, hay, or straw, except by permit of and under such conditions as may be prescribed by the fire department.

Tenements, etc.; to be cleansed; owners' names to be registered in department of health.

§ 1313. Every owner of a tenement or lodging-house and every person having control of a tenement or lodging-house, shall file in the department of health, a notice containing his name and address, and also a description of the property, by street number or otherwise, as the case may be, in such manner as will enable the department of health easily to find the same; and also the number of apartments in each house, the number of rooms in each apartment, the number of families occupying the apartments, and the trades or occupations carried on therein. In case of a transfer of any tenement-house, or lodging-house, it shall be the duty of the grantor and grantee of said tenement or lodging-house to file in the department of health a notice of such transfer, stating the name of the new owner, within thirty days after such transfer. In case of the devolution of said property by will, it shall be the duty of the executors and of the devisee, if more than twenty-one years of age, and in case of the devolution of such property by inheritance without a will, it shall be the duty of the heirs, or in case all of the heirs are under age, it shall be the duty of the guardians of such heirs, and in case said heirs have no guardians, it shall be the duty of the administrator of the deceased owner of said property to file in said department a notice, stating the death of the deceased owner, and the names of those who have succeeded to his interest in said property, within thirty days after the death of said decedent, in case he died intestate, and within thirty days after the probate of his will, if he died testate. A failure to file such notice shall make said property, and the owners thereof, liable to a penalty of not less than ten dollars nor more than fifty dollars. Said penalty may be recovered in an action brought by the health department, as provided in this act. Every person claiming to have an interest in any tenement or lodging-house may file his name and address in the department of health. All notices and orders of the department of health required by law to be served in relation to

a tenement or lodging-house, shall be served by posting in some conspicuous place in the house a copy of the notice or order, five days before the time for doing the thing in relation to which said notice or order was issued. The posting of a copy of an order or notice, in accordance with this section, shall be sufficient service upon the owner of the property affected. It shall be the duty of the department of health to cause a copy of every such notice or order to be mailed, on the same day that it is posted in the house, addressed to the name and address of each person who has filed with the department of health the notice provided for in this section.

Inspection twice a year; officers to have access.

§ 1314. It shall be the duty of the board of health to cause a careful inspection to be made of every tenement and lodging-house at least twice in each year. And whenever the board of health has made any order concerning a tenement or lodging-house it shall cause a reinspection to be made of the same within six days after it has been informed that the order has been served. The keeper of any lodging-house and the owner, agent of the owner, lessee or 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 department of health, or by any officer upon whom any duty 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 information thereof has been given 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 immediately cleansed or disinfected, at the expense of the owner, in such manner as it may deem necessary and effectual, and it 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.

Infected and uninhabitable houses to be condemned by board of health.

§ 1315. Whenever it shall be certified to the board of health of The City of New York by the sanitary superintendent or an assistant sanitary superintendent that any building or any part thereof in The City of New York is infected with contagious disease, or by reason of want of repair has become dangerous to life, or is unfit for human habitation because of defects in drainage, plumbing, ventilation, or the construction of the same, or because of the existence of a nuisance on the premises, which is likely to cause sickness among its occupants, the said board of health may issue an order requiring all persons therein to vacate such building or part thereof for the reasons to be stated therein as aforesaid. Said board shall cause said order to be affixed conspicuously in the building or part thereof and to be personally served on the owner, lessee, agent, occupant, or any person having the charge or care thereof; if the owner, lessee or agent can not be found in The City of New York or do not reside therein, or evades or resists service, then said order may be served by depositing a copy thereof in the post-office in The City of New York, properly enclosed and addressed to such owner, lessee or agent at his last known place of business and residence, and prepaying the postage thereon; such building or part thereof shall, within ten days after said order shall have been posted and mailed as aforesaid, or within such shorter time, not less than twenty-four hours, as in said order may be specified, be vacated, but said board of health, whenever it shall become satisfied that the danger from said building or part thereof has ceased to exist, or that said building has been repaired so as to be habitable, may revoke said order.

Proceedings for condemnation prescribed.

§ 1316. Whenever, in the opinion of the board of health of The City of New York, any building or part thereof in The City of New York, an order to vacate which has been made by said board is, by reason of age, defects in drainage, plumbing, infection with contagious disease, or ventilation, or because of the existence of a nuisance on the premises, which is likely to cause sickness among its occupants, or among the occupants of other property in The City of New York, or because it stops ventilation in other buildings, or otherwise

makes or conduces to make other buildings adjacent to the same unfit for human habitation, or dangerous or injurious to health, or because it prevents proper measures from being carried into effect for remedying any nuisance injurious to health, or because of other sanitary evils in respect of such other buildings, so unfit for human habitation that the evils in, or caused by said building, can not be remedied by repairs, or in any other way except by the destruction of said building, or of a portion of the same, said board of health may, if it deem such course just and proper, condemn the same and order it removed; provided, however, that the owner or owners of said building may demand a survey of said building in the manner provided for in case of unsafe buildings, and may institute proceedings in the supreme court in The City of New York for the condemnation of said building. Said proceeding shall be instituted through a petition addressed to said court containing a brief statement of the reasons therefor, and shall not be required to contain further allegations of facts, than those which have actuated the board of health in this proceeding, which shall then be carried on in the manner prescribed by chapter twenty-one of this act. The owner of said building, or any person interested therein may in his answer dispute the necessity of the destruction of said building, or part thereof, as the case may be. In such case, the court shall not appoint commissioners unless proof is made of the necessity of such destruction. In such proceeding evidence shall be receivable by the commissioners to prove:

1. That the rental of the building was enhanced by reason of the same being used for illegal purposes, or being so overcrowded as to be dangerous or injurious to the health of the inmates; or

2. That the building is in a state of defective sanitation, or is not in reasonably good repair; or

3. That the building is unfit, and not reasonably capable of being made fit, for human habitation; and, if the commissioners are satisfied by such evidence, then the compensation—

(a) Shall in the first case, so far as it is based on rental, be on the rental of the building, as distinct from the ground rent, which would have been obtainable if the building was occupied for legal purposes, and only by the number of persons whom the building was under all the circumstances of the case, fitted

to accommodate without such overcrowding as is dangerous or injurious to the health of the inmates; and

(b) Shall in the second case be the amount estimated as the value of the building if it had been put into a sanitary condition, or into reasonably good repair, after deducting the estimated expense of putting it into such condition or repair; and

(c) Shall in the third case be the value of the materials of the building.

For the payment of all awards and the expenses of all such proceedings, the comptroller shall issue and sell from time to time as may be necessary and in the manner hereinbefore provided, corporate stock of The City of New York.

Houses hereafter erected to comply with additional requirements.

§ 1317. No house hereafter erected shall be used as a tenement-house or lodging-house, and no house heretofore erected and not now used for such purpose, shall be converted into, used, or leased for a tenement or lodging-house, unless, in addition to the requirements hereinbefore contained, it conforms to requirements contained in the following sections of this title.

Construction of tenement-houses and spaces prescribed for building the same.

§ 1318. It shall not be lawful, without a permit from the **[department]** bureau of buildings, to alter, erect 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; nor shall it be lawful to build or to erect any building on any lot whereon there is already a tenement or lodging-house, unless there is a clear open space exclusively belonging thereto, and extending upward 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 shall not be less than twenty feet; if they are more than three stories high, the distance between them shall not be less than twenty-five feet, but when thorough ventilation of such open spaces can be otherwise secured, such distances may be lessened or modified in special cases by a permit from the **[department]** bureau of buildings. At the rear of every building hereafter erected for or converted to the purposes of a tenement or

lodging-house on any lot, there shall be and remain a clear open space of not less than ten feet between it and the rear end of the lot. No one continuous building hereafter constructed shall be built or converted to the purposes of a tenement or lodging-house in The City of New York, upon an ordinary city lot, and no existing tenement or lodging-house shall be enlarged or altered, or its lot be diminished, so that it shall occupy more than sixty-five per centum of the area of said lot, but where the light and ventilation of such tenement or lodging-house are, in the opinion of the superintendent of buildings, materially improved, he may permit such tenement or lodging-house to occupy an area not exceeding seventy-five per centum of the said lot, and in the same proportion if the lot be greater or less in size than twenty-five by one hundred feet; but this provision shall not apply to corner lots, in which, however, no such building hereafter constructed, above the first story, shall occupy more than ninety-two per centum of the area of a lot, and no such building shall come within five feet of the rear of said lot, provided, further, that in all cases, both for corner and interior lots, the interior courts or shafts shall not be less than two feet four inches wide at their narrowest parts. In computing the amount of the lot covered by a building, any shaft or court of less than twenty-five square feet in area shall be considered as part of the building and not as part of the free air space. No shaft or court, over ten square feet in area, hereafter constructed in a tenement-house or lodging-house, except elevator shafts or staircase wells, shall be covered with a roof, skylight or otherwise. In all tenement-houses hereafter constructed or buildings hereafter converted to the purposes of a tenement-house, the stairway communicating between said cellar or basement and the floor next above, when placed within any such building, shall be enclosed with brick walls, and such stairway shall be provided with fireproof doors at the top and bottom of said flight of stairs. An open area shall be constructed from the level of the cellar to the sidewalk in front and extending the full width of such houses, with a staircase to give access to the cellar from the street. Where stores are located on the first floor the area may be covered with suitable vault lights or gratings. In all tenement-houses hereafter constructed, or building hereafter converted to the purposes of a tenement-house, the openings to the elevators

or lifts in the cellar, and at every opening, on every story, shall be provided with self-closing fireproof doors. This provision, however, shall not apply to such elevators in tenement-houses as are operated by a conductor stationed within the car; but if such elevators run to the cellar, they must be inclosed in the cellar with fireproof walls, and the door to the cellar, if any, must be fireproof and self-closing. In all tenement-houses hereafter constructed, or buildings hereafter converted to the purposes of a tenement-house, all staircases shall be fireproof; but this provision as to staircases shall not apply to buildings which are not over five stories high above the cellar, and which contain not more than three suites of rooms on a floor. Every tenement-house hereafter constructed, or buildings hereafter converted to the purpose of a tenement-house, exceeding three stories in height, or having a basement with three stories above the cellar, shall have the entrance hall and entire stairwell and stairs, built of slow-burning construction or fireproof material; no wainscoting shall be allowed in the main halls, except of cement or other fireproof material; at least one flight of such stairs shall extend to the roof, and be inclosed in a bulkhead building of fireproof material. In all tenement-houses hereafter constructed, and buildings hereafter converted to the purposes of a tenement-house, each room must have a separate window opening into the outer air; each water-closet must have a window opening into the outer air, and such water-closet inclosure, if provided with a ventilating flue or duct, may have the window opening on any court or shaft containing at least twenty-five square feet in area; the floor of each water-closet must be made waterproof with asphalt, cement, tile, metal or some other waterproof material; and such waterproofing must extend at least sixteen inches above the floor, except at the door opening, so that said floor can be washed or flushed out without leaking. The light and ventilation of all buildings hereafter erected for, or converted to the purpose of tenement or lodging-houses, must be provided in accordance with the requirements of this title, and the conditions of a plan and permit previously approved in writing by the [department] bureau of buildings, and no existing tenement or lodging-house shall be enlarged or altered or its lot diminished without a similar permit. The [department] bureau of buildings is hereby

empowered and directed to make rules and regulations not inconsistent with the requirements of this title, and which, in addition to the requirements of this title, shall be the conditions of approval of the plans and permits; the rules and regulations shall govern the arrangement and distribution of the uncovered area, size, lighting, location and arrangement of shafts, rooms, cellars and halls. No building or premises occupied for a tenement-house shall be used for a lodging-house, private school, stable or for the storage and handling of rags, but the department of health may, by a special permit, fixing the conditions thereof in writing, and providing there be the necessary cubic air space and ventilation, allow the maintenance of a private school in such a house. In case of any violation of the provisions of this section, or of any failure to comply with, or of any violation of the terms and conditions of the plan for such tenement or lodging-house approved by the **[department]** bureau of buildings, or of the conditions of the permits granted as hereinbefore provided, or for the air, light and ventilation of the said house, or premises, any court of record, or any judge or justice thereof shall have power, at any time after service of notice of violation, or of non-compliance, upon the owner, builder or other person superintending the building or converting any such house, upon proof by affidavit of any violation or non-compliance as aforesaid, or that a plan for light and ventilation of such house has not been approved by the **[department]** bureau of buildings, to restrain by injunction order, in any action by the **[department]** bureau of buildings, or by the board of health, the further progress of any violation as aforesaid. No undertaking shall be required as a condition of granting an injunction, or by reason thereof.

Dimensions and ventilation of rooms.

§ 1319. 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 fireplace, shall be provided with special means of ventilation, by a separate air shaft extending to the roof, or otherwise, as the board of health may prescribe.

Chimneys, ash receptacles, water, cellar floor, ceilings and gas in tenement-houses.

§ 1320. Every such house erected after May fourteenth, eighteen hundred and sixty-seven, or converted, shall have an adequate chimney for a stove, properly connected with one of said chimneys, for every family set of apartments. It shall have proper conveniences and receptacles for ashes and rubbish. It shall have water furnished in sufficient quantity at one or more places on each floor, occupied or intended to be occupied by one or more families; and all tenement-houses shall be provided with a like supply of water by the owners thereof, whenever they shall be directed so to do by the board of health. But a failure in the general supply of water by the city authorities shall not be construed to be a failure on the part of such owner, provided that proper and suitable appliances to receive and distribute such water are placed in said house. The board of health shall require all tenement-houses to be so supplied. Every tenement-house shall have the floor of the cellar made water-tight; and the ceiling plastered, and when the house is located over filled-in ground, or over marshy ground, or ground on which water lies, the cellar floor shall be covered so as to effectually prevent evaporation or dampness. It shall be the duty of the department of health to see that the cellars of all tenement-houses are so made or altered as to comply with this section. Every such house erected after May seventh, eighteen hundred and eighty-seven, or converted, shall have the halls on each floor 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 [department] bureau of buildings. The owner or lessee of every tenement or lodging house in The City of New York shall keep a light burning in the hallway upon each floor of said house from sunset until ten p. m. throughout the year. In every tenement-house in the said city in which there is a hallway or hallways with no windows opening from such hallway outside of said house, a light shall be maintained by said owner or lessee in each such hallway, between the hours of eight a. m. and ten p. m. of each day unless said hallway shall be otherwise sufficiently lighted. The fire department of The City of New York is hereby vested with authority to prescribe reasonable regulations concerning such precautions as may be necessary to prevent danger from fire arising from such lights.

Overcrowding of tenement-houses prohibited; housekeeper in same required.

§ 1321. Whenever it shall be certified to the department of health by the sanitary superintendent, or an assistant sanitary superintendent, that any tenement-house or room therein, being without sufficient ventilation, is so overcrowded that there shall be afforded less than four hundred cubic feet of air to each adult, and two hundred cubic feet of air to each child under twelve years of age, occupying such building or room, the said department shall issue an order requiring the number of occupants of such building, or room, to be reduced in accordance with this provision. Whenever there shall be more than eight 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 department of health shall so require. Permits may be granted by the board of health to the owners of lodging-houses on compliance with the rules and regulations of the sanitary code in The City of New York, and the conditions of each permit, which shall be in writing.

Penalties for violations of provisions concerning tenement-houses.

§ 1322. 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 or 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 day that such offense shall continue. Such penalty may be sued for and recovered by the department of health in any civil tribunal of said city, and when recovered shall be paid over to the chamberlain. 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. No part of chapter two hundred and seventy-five of the laws of eighteen hundred and ninety-two, or of any other act shall be so construed as to abrogate or impair the power of the department of health to sue for and recover such a penalty whether the liability to pay said penalty shall arise from a violation of the laws, or ordinances or sections of the sanitary code, in regard to light, ventilation, plumbing and drainage, so far as the same affects the sanitary condition of the premises; and except that the [department] bureau of buildings [of The City of New York] shall have jurisdiction and cognizance over all matters and things in this title contained which relate to the construction or alteration of buildings or structures, or any part thereof, and as to the light, ventilation, drainage and plumbing of such buildings when in process of construction or alteration. Any penalty herein above mentioned for a violation of the provisions of this title, in respect to the matter aforesaid, within the jurisdiction and cognizance of the [department] bureau of buildings, shall be sued for and recovered in the same manner as the violations of the building laws of The City of New York are now sued for and recovered by the [department] bureau of buildings [in the city of New York], and said penalty so collected shall be paid to the chamberlain of The City of New York to be applied as other penalties collection by said department are applied.

Power of [department] bureau of buildings and of board of health to make other regulations relative to tenement or lodging-houses.

§ 1323. The [department] bureau of buildings shall have authority to make other regulations as to light and ventilation of all new tenement or lodging houses consistent with the foregoing, when it shall be satisfied that such regulations will secure equally well the health and safety of the occupants; likewise the board of health shall have authority to make other regulations as to cellars and as to ventilation in completed buildings, consistent with the foregoing, where it shall be satisfied that such regulations will secure equally well the health of the occupants. The board of health shall have power to appoint all the officers and agents of the department of health, of whatever name or character soever, and shall have exclusive charge and control of, and the exercise of, all the rights, powers, duties and privileges of said department, and for this purpose the terms "board of health" and "department of health," as used in this chapter, shall be deemed synonymous.

Sanitary company of police.

§ 1324. The board of health shall make requisition upon the police board for the detail of at least fifty and not more than one hundred suitable officers and men of at least five years' service in the police force, who shall be selected for their peculiar fitness, for the enforcement of the provisions of the sanitary code and the acts relating to tenement and lodging houses. These officers and men shall be detailed to such service by the police board, and the department of health shall pay to the police department monthly, the amount of the pay of the officers and men so detailed, who shall belong to the sanitary company of the police and shall report to the board of health. At least thirty of the officers and men so detailed shall be employed exclusively in the enforcement of the laws relating to tenement and lodging houses. The board of health may report back to the police board for punishment, any member of said company guilty of any breach or orders or discipline, or of neglecting his duty, and thereupon the police board shall 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 police department; 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 shall be detailed in his place.

This chapter a remedial statute; construction.

§ 1325. This chapter is hereby declared to be a remedial statute and is to be construed liberally to secure the beneficial interests and purposes thereof. Nothing herein contained shall be construed to affect any suit or proceeding now pending in any court, or any rights acquired or liability incurred, or any cause or causes of action accrued or existing, whether for a penalty or otherwise, under any act repealed or amended by this act. Wherever the bureau of buildings is referred to in this chapter the provisions relating thereto shall be held to apply to such bureau as established by the president of any borough within the borough, or to said president of a borough when no such bureau has been established by him. All acts and parts of acts in conflict with this chapter or any part thereof are hereby repealed.

TITLE 8.

*The Health Department Pension Fund.***Board of trustees of health department pension fund.**

§ 1331. [The board of health of the health department of The City of New York is hereby constituted, and shall be a board of trustees of the health department pension fund heretofore, and herein, authorized and provided for. The members of said board of health shall annually choose one of their number to be chairman of the board of trustees of the health department pension fund, and shall from time to time elect a secretary. Immediately upon organization, said board of trustees] The commissioner of health shall be the trustee of the health department pension fund hereinafter mentioned, and shall be treasurer of the said pension fund. He shall, before entering upon his duties as treasurer thereof, execute and deliver to the comptroller of The City of New York, a bond in the penal sum of twenty-five thousand dollars, to be approved by the comptroller of The City of New York, conditioned for the faithful discharge of his duties, and that he shall pay over and account for all moneys and property which shall come into his hands as such treasurer. He shall receive and have charge of the pension fund, or funds heretofore

authorized, and in existence in any health department, municipality, or county, forming a part of The City of New York, provided for officers, physicians, and employees in the health department service, and [such board of trustees] shall have charge of, and administer the pension fund authorized and provided for herein, and shall from [From] time to time [the said board of trustees shall] invest the said pension fund or any part thereof, as [it] he shall deem most beneficial to the fund [.] and he [Said board] is empowered to make all necessary contracts and take all necessary and proper actions and proceedings in the premises, and to make payment from said fund of pensions granted in pursuance of this act. The said trustee[s] shall, from time to time, establish such rules and regulations for the administration of the said fund as [they] he may deem best. [They] He shall report in detail to the mayor of The City of New York annually in the month of January, the condition of said fund and the items of their receipts and disbursements on account of the same. No payments whatever shall be allowed to, or made by, such trustees as reward, gratuity, or compensation to any person for salary or services rendered to, or for, said board of trustees.

What moneys shall be included in pension fund.

§ 1332. The health department pension fund shall consist of:

1. All moneys paid for searches and transcripts of the records of births, marriages and deaths, or other papers of said department of health.
2. All moneys collected from fines and penalties for violations of the sanitary code or health laws in The City of New York.
3. All said moneys, including the fines and penalties directed in section twelve hundred and twenty-two of this act, to be paid to the comptroller shall, within thirty days after collection of payment, be paid over by the department, officers, clerks, magistrates and courts receiving and collecting the same to the said board of trustees of the health department pension fund.

Any surplus in the health department pension fund over and above twenty-five thousand dollars shall be transferred to the general fund for the reduction of taxation.

Pension for [physician or] employee disabled by reason of performance of duty.

§ 1333. The [board of trustees] trustee of said fund shall have power to grant as pension to [any physician employed in the health department of The City of New York, or to] any employee of the disinfecting corps of said department or to any employee of the hospitals for the treatment of contagious and infectious diseases under the charge of said health department or of the board of health, who shall, [whilst in the] as a consequence of the actual performance of his duty, and without any fault or misconduct on his part, have become permanently disabled physically or mentally, so as to be unfit to perform full duty, a sum not to exceed one-half, nor less than one-fourth of his rate of compensation per annum as such [physician or] employee, as the case may be.

Pensions to personal representatives of [physician or] employee who shall die from disease or injuries suffered in consequence of his performance of duty.

§ 1334. Whenever such [physician or] employee shall die while in the service of the health department from disease contracted or injuries sustained by him [while in] as a consequence of the actual performance of his duty, without any fault or misconduct on his part, leaving a widow, the said [board of trustees] trustee of said pension fund may grant, award or pay to the widow of said [physician or] employee the sum of three hundred dollars annually, during her life, so long as she remains a widow; and if there be no widow of any such [physician or] employee, but he shall leave minor children under eighteen surviving him, then said three hundred dollars may be given, awarded and paid to said children under eighteen years of age.

Certificate required in certain cases.

§ 1335. No [physician or] employee, as aforesaid, of the health department, shall be awarded, granted or paid a pension on account of physical or mental disability or disease, unless upon certificate and report of a board of physicians, to be appointed by the board of health, which shall set forth the cause, nature and extent of the disability, disease or injury

of such [physician or] employee, who may be placed on the pension roll, and such certificate shall distinctly state whether or not such disability, disease or injury was incurred or sustained by such [physician or] employee while in the performance of his duties as such [physician or] employee of the health department, and such certificate shall, in such case, be filed with, and entered upon the minutes of the board of health.

Order of discontinuance of pension in certain cases.

§ 1337. The board of health may, in its discretion, order any pension granted or any part thereof to cease, [except as provided in the last preceding section,] but in all such cases the said board of health, shall file with the [board of trustees] trustee of the health department pension fund, a written statement of the causes determining the action of the said board of health in ordering any pension to so cease; and nothing in this act or in any other act, shall render the granting or payment of such pension obligatory on the board of health, or upon the trustee[s] of the health department pension fund, or chargeable as a matter of right upon said fund. [except as provided in the last preceding section.]

Repeal of acts inconsistent with this title.

§ 1339. All acts and parts of acts inconsistent with this title are hereby repealed.

CHAPTER XX.

INFERIOR LOCAL COURTS.

Title 1. The city court of New York.

Title 2. The municipal court of The City of New York.

Title 3. Inferior courts of criminal jurisdiction.

Title 4. The marshals.

Title 5. Interpreters.

TITLE I.

The City Court of New York.

The city court of New York continued.

§ 1345. The city court shall be continued, and said court and the justices thereof shall have the same powers and jurisdiction as are now conferred upon them by law; provided, however, that in sections three hundred and thirty-eight, thirty-one hundred and sixty-five, thirty-one hundred and sixty-nine, thirty-one hundred and seventy, and thirty-two hundred and sixty-eight of the code of civil procedure the word "city" shall be construed to mean and apply to the territory within the city of New York as it existed and was constituted prior to the [sixth] first day of [June] January, eighteen hundred and ninety-[five] eight.

Id.; justices of the court.

§ 1346. The justices of said city court in office when this act shall take effect shall continue to hold office until the expiration of their respective terms; but the successors of said justices shall be elected for and hold office for the period of ten years.

TITLE 2.

*The Municipal Court of The City of New York.***Courts, etc., abolished.**

§ 1350. From and after midnight of the thirty-first day of January, eighteen hundred and ninety-eight, the justices' courts and the office of justice of the peace in the cities of Brooklyn and Long Island City are abolished, and all jurisdiction, power, authority and duty theretofore vested in said courts and justices of the peace, and in the clerks, officers, interpreters, stenographers and employees of said courts and justices shall cease and determine, except as provided in the next section and section thirteen hundred and seventy-two of this act; and from and after the passage of this act no person shall be elected to the office of district court justice or justice of the peace in any portion of the territory included within The City of New York as constituted by this act.

Municipal court created.

§ 1351. On and after the first day of January, eighteen hundred and ninety-eight, the district courts of the city of New York and the justices' courts of the first, second and third districts of the city of Brooklyn are hereby continued, consolidated and reorganized under the name of "The Municipal Court of The City of New York," which said court shall be a local civil court within The City of New York as constituted by this act, and shall not be a court of record or have any equity jurisdiction; but shall have the jurisdiction, powers, duties and organization hereinafter prescribed.

Justices.

§ 1352. The said court shall be held by justices to be elected or appointed, as follows:

1. The justices of said district courts of The City of New York and said justices of the peace in the first, second and third districts of the city of Brooklyn, in office on the first day of January, eighteen hundred and ninety-eight, shall continue for the remainder of the terms for which they were elected or appointed, and shall be called justices of the municipal court of The City of New York, and shall have all the powers and jurisdiction and be subject to all the duties

and requirements hereinafter prescribed for justices of said municipal courts.

2. The successors of the justices mentioned in the first subdivision of this section shall be elected by the electors of the districts for which said justices were elected or appointed respectively, as described and renumbered in sections thirteen hundred and fifty-nine, thirteen hundred and sixty and thirteen hundred and sixty-one of this act, at the general election to be held in the year at the end of which the terms of said justices shall expire.

3. There shall be elected at the general election to be held on the first Tuesday succeeding the first Monday of November, in the year eighteen hundred and ninety-seven, as many justices of said municipal court as there shall be justices of the said district courts in the city of New York or justices of the peace of the said first, second and third districts, in the city of Brooklyn, whose terms expire at the end of year eighteen hundred and ninety-seven. Such justices shall be elected by the electors of the districts for which such justices whose terms expire in eighteen hundred and ninety-seven were elected or appointed, as described and renumbered in sections thirteen hundred and fifty-nine, thirteen hundred and sixty and thirteen hundred and sixty-one of this act.

4. On or before the twentieth day of January, eighteen hundred and ninety-eight, the mayor of The City of New York shall appoint seven additional justices of said municipal court, two of whom shall be residents of the fourth and fifth districts of the borough of Brooklyn, three of whom shall be residents of the first, second and third districts of the borough of Queens, and two of whom shall be residents of the first and second districts of the borough of Richmond, respectively. The justices so appointed shall hold office till the thirty-first day of December, eighteen hundred and ninety-nine, and their successors shall be elected at the general election to be held in the year eighteen hundred and ninety-nine, and shall be residents of the same districts as the justices appointed pursuant to this subdivision.

Qualifications, etc., of justices.

§ 1353. No one shall hereafter be eligible to the office of justice of the said municipal court, after the first day of March, eighteen hundred and ninety-nine unless he be a resident and

elector in the district for which he shall be elected or appointed and has been an attorney and counsellor-at-law of the state of New York for at least five years or unless he shall have served as a justice of such municipal court. None of said justices shall engage in any other business profession or hold any other public office or act as referee, or receiver, but each of said justices shall devote his whole time and capacity, so far as the public interest demands, to the duties of his office; provided, however, that this restriction shall not apply to the justices of said court mentioned in subdivision one of section thirteen hundred and fifty-two of this act.

Oath.

§ 1354. The justices elected or appointed pursuant to this act shall, before entering upon their duties, take the oath of office prescribed by the constitution, and file the same with the city clerk.

Salary.

§ 1355. The salary of each of said justices, except those appointed or elected from the boroughs of Queens and Richmond, shall be six thousand dollars a year, to be paid in equal monthly instalments by the proper officers of said city, and the salary of each of said justices appointed or elected for the boroughs of Queens and Richmond shall be five thousand dollars a year, to be paid in the same manner.

Terms.

§ 1356. The terms of said justices to be elected pursuant to this title shall be ten years.

Vacancies.

§ 1357. Vacancies occurring in the office of justice of said court shall be filled at the next ensuing general election for the unexpired term commencing on the first day of January next after said election; and the mayor of the city shall appoint some proper person to fill such vacancy in the interim within twenty days after the same occurs.

Districts.

§ 1358. The several boroughs composing The City of New York are hereby divided into districts, in each of which ses-

sions of said municipal court shall be held, as specified in the next five sections.

Borough of The Bronx.

§ 1359. In the borough of The Bronx there shall be two districts, as follows:

1. The first district embracing the territory described in chapter nine hundred and thirty-four of the laws of eighteen hundred and ninety-five.
2. The second district embracing the remainder of said borough.

Borough of Manhattan.

§ 1360. In the borough of Manhattan there shall be eleven districts, as follows:

1. The first district embraces the third, fifth and eighth wards of said borough of Manhattan, and all that part of the first ward lying west of Broadway and Whitehall street, including Nuttin or Governor's island, Bedloe's island, Buckingham or Ellis island and the Oyster islands.

2. The second embraces the second, fourth, sixth and fourteenth wards, and all that portion of the first ward lying south and east of Broadway and Whitehall street.

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 ward.

8. The eighth district embraces the sixteenth and twentieth wards.

9. The ninth district embraces the twelfth ward, except that portion thereof which lies west of the center line of Lenox or Sixth avenue and of the Harlem river north of the terminus of Lenox avenue.

10. The tenth district embraces the twenty-second ward and all that portion of the twelfth ward which is bounded on the north by the center line of One Hundred and Tenth street, on the south by the center line of Eighty-sixth street, on the east

by the center line of Sixth avenue and on the west by the North river.

11. The eleventh district embraces that portion of the twelfth ward which lies north of the center line of West One Hundred and Tenth street and west of the center line of Lenox or Sixth avenue and of the Harlem river north of the terminus of Lenox or Sixth avenue.

Borough of Brooklyn.

§ 1361. In the borough of Brooklyn there shall be five districts, as follows:

1. The first district embraces the first, second, third, fourth, fifth, sixth, tenth and twelfth wards.

2. The second district embraces the seventh, [eighth,] ninth, eleventh, twentieth, twenty-first, [twenty-second] and twenty-third wards.

3. The third district embraces the thirteenth, fourteenth, fifteenth, sixteenth, seventeenth, eighteenth and nineteenth wards.

4. The fourth district embraces the twenty-fourth, twenty-fifth, twenty-sixth, twenty-seventh and twenty-eighth wards.

5. The fifth district embraces the eighth, twenty-second, twenty-ninth, thirtieth, thirty-first and thirty-second wards.

Borough of Queens.

§ 1362. In the borough of Queens there shall be three districts, as follows:

1. The first district embraces ward one of said borough.

2. The second district embraces wards two and three of said borough.

3. The third district embraces wards four and five of said borough.

Borough of Richmond.

§ 1363. In the borough of Richmond there shall be two districts, as follows:

1. The first district embraces wards one and three of said borough.

2. The second district embraces wards two, four and five of said borough.

Jurisdiction.

§ 1364. Except as provided in the next section the said municipal court has jurisdiction in the following civil actions and proceedings, including an action against The City of New York or a domestic corporation or a foreign corporation having an office in The City of New York:

1. An action to recover damages upon or for breach of contract, express or implied, other than a promise to marry, where the sum claimed does not exceed five hundred dollars.

2. An action to recover damages for a personal injury or an injury to property, excepting, however, actions to recover damages for an assault, battery, malicious prosecution, false imprisonment, libel, slander, criminal conversation, seduction, or loss of society of a husband or wife, where the sum claimed does not exceed five hundred dollars.

3. An action for a fine or penalty not exceeding five hundred dollars, including an action to recover a penalty given by the charter of The City of New York or any by-law or ordinance thereof or by any statute of the state.

4. An action upon a bond conditioned for the payment of money where the sum claimed to be due does not exceed five hundred 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.

5. An action upon a surety bond or undertaking taken in said court or in any district court of The City of New York or by any justice of the peace.

6. An action upon a judgment rendered in said court or in a district court of The City of New York or in a justices' court, or in the municipal court of the city of Rochester, or in the municipal court of the city of Syracuse, or in the municipal court of the city of Buffalo.

7. 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 the chattels as stated in the affidavit made on the part of the plaintiff does not exceed five hundred dollars, 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 of the code of civil procedure.

8. An action in behalf of the people of the state brought by the direction of a commissioner of public charities or of an overseer of the poor upon a bastardy or abandonment bond in a case where it is prescribed by law that such an action can be maintained in said municipal court of The City of New York or in any court not being a court of record.

9. An action to recover damages for an escape from the jail liberties as provided by chapter two, title two, articles four and five of the code of civil procedure, where the sum claimed does not exceed one hundred dollars.

10. An action upon the bond of a marshal of The City of New York in a case where it is prescribed by a special statutory provision that such an action can be maintained in a district court or in said municipal court.

11. An action for damages for fraud or deceit in the sale, purchase or exchange of personal property where the damages claimed do not exceed five hundred dollars.

12. A summary proceeding under title two of chapter seventeen of the code of civil procedure to recover possession of real property which, or a portion of which, is situated within the district wherein the application for such recovery is made.

13. To render judgment upon the confession of the defendant or defendants as prescribed in title six of chapter nineteen of the code of civil procedure where the sum confessed does not exceed five hundred dollars.

14. Other civil actions or proceedings of which district courts in The City of New York, or justices of the peace shall have jurisdiction on the thirty-first day of December, eighteen hundred and ninety-seven, except such as shall be expressly excluded by this act.

Id.; continued.

§ 1365. The said municipal court can not take cognizance of any civil actions in either of the following 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, and sections twenty-nine hundred and fifty-one to twenty-nine hundred and fifty-eight of said code, both inclusive, apply to an action brought in said court; and in an action brought in said court the surety upon the defendant's undertaking is liable in the case specified in section twenty-nine hundred and fifty-two of said code to any amount for which judg-

ment might have been rendered by said court if the answer and undertaking had not been delivered. The provisions of section thirteen hundred and forty-nine of chapter four hundred and ten of the laws of eighteen hundred and eighty-two shall govern in such cases.

2. Where the action is brought against an executor or administrator as such and the amount claimed is in excess of fifty dollars.

[3. Where the action is against The City of New York as hereby constituted.]

3. [4.] Where, in a matter of account, the sum total of the accounts of both parties, proved to the satisfaction of the court, exceeds one thousand dollars.

Removal.

§ 1366. In an action specified in the last section but one, excepting subdivisions eight and ten, where the damages claimed or the value of the chattel or all the chattels claimed, as stated in the complaint, exceeds two hundred and fifty dollars, the defendant may, after issue is joined and before an adjournment has been granted upon his application, apply to the justice holding court in the district in which the action is brought for an order removing the action, and if it be in the second district of the borough of The Bronx or in any district of the borough of Manhattan, to the city court of The City of New York, if in any other district into the county court of the county wherein the district is situated, if the said county court has jurisdiction of such action, otherwise into the supreme court in such county. 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 to which such action shall be removed. From the time of granting the order, the city court or county court or supreme court, as the case may be, has cognizance of the action, and the clerk of the district must forthwith deliver to the clerk of such court to which the action shall be removed 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.

Appeals.

§ 1367. 1. An appeal from a judgment rendered in the municipal court of The City of New York may be taken to the supreme court in the cases and in the manner prescribed in articles first and second of title eight of chapter nineteen of the code of civil procedure. Such appeal shall be heard in such manner and by such justice or justices as the appellate division of the supreme court in the judicial department embracing the district wherein the action is brought shall direct, except that the appellate division of the second judicial department may direct that such appeal be heard directly before that court. The appellate court may reverse, affirm or modify the judgment appealed from, and where a judgment is reversed, may order a new trial in the municipal court in the district in which the action was brought. Where a judgment is modified or a new trial is ordered, costs shall be in the discretion of the appellate court.

2. In all cases of appeal from the decision of the said municipal court, where a transcript of the stenographer's minutes of testimony on the trial becomes a necessary part of the justice's return, the stenographer's fees for making such transcript shall be at the rate of five cents for every hundred words, and be paid in the first instance by the appellant, and afterwards taxable by him as a disbursement on the appeal.

Process.

§ 1368. The municipal court in any district shall have power to send its process and other mandates in an action or special proceeding of which it has jurisdiction into any district or part of The City of New York for service or execution, and to enforce obedience thereto, and such process and mandates may be served in any district or part of The City of New York, as constituted by this act.

Procedure, etc.

§ 1369. In so far as the same are consistent with this act, all provisions of law relating to the procedure and organization, the summons, precept, attachment, arrest, subpoena or

other process, service and execution of the same, time, appearances, parties, attorneys, practice, proceedings, pleadings, amendments, adjournment, defaults, judgments, transcripts, docketing, executions, offers, fees, costs, disbursements, joint debtors, depositions, taking testimony by commission and de bene esse, guardians ad litem, trials, jurors and drawing of jurors, and all matters incidental to the same, the powers and duties of the justices and clerks and other employees in district courts in The City of New York which shall be in force on the thirty-first day of December, eighteen hundred and ninety-seven, shall apply to and control and govern the same in said municipal court and the branches thereof in each district, except that a marshal of The City of New York can not appear or act on behalf of either or any party in an action or proceeding in said municipal court. Sections eight to fourteen, inclusive, of the code of civil procedure, excepting subdivision seven of said section fourteen, are hereby made applicable to and shall govern said municipal court. But in all cases where in any statute relating to said district courts the power and authority of said courts is limited to the city and county of New York, or to persons residing in or who are about to leave the city and county of New York, the power and authority of said municipal court is extended to The City of New York, as constituted by this act, and to all persons residing in or who are about to leave said city, of New York, as so constituted, except as in this chapter otherwise expressly provided. In an action specified in section thirteen hundred and sixty-four of this act (except subdivisions eight and ten), where the damages or the value of the chattels as claimed in the complaint, exceed one hundred dollars, if, at the time of joining an issue of fact the defendant demanded a trial by a jury of twelve men, the justice shall order such a jury to be summoned to try the same, and the proceedings and fees shall be the same as are prescribed in section thirteen hundred and seventy-three of chapter four hundred and ten of the laws of eighteen hundred and eighty-two.

Actions, in what district brought.

§ 1370. An action or proceeding of which this court has jurisdiction must be brought:

- I. 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 said court in any district.

2. If the defendant be a corporation created by law, in a district in which the plaintiff or either of the plaintiffs resides, or in which (if it be a corporation) 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 may sue in any district, except as in the next section provided.

3. By plaintiffs not residing in The City 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, in the district in which the plaintiff or one of the plaintiffs resides; but where all the parties reside out of said city the action may be brought in any district. No person who shall have a place in said city for the regular transaction of business shall be deemed a non-resident under the provisions of this title.

4. If the district in which the action or proceeding is brought is not the proper district, the action may, notwithstanding, be tried therein, unless the action is transferred to the proper district before trial upon demand of the defendant made upon or before the joinder of issue in writing or in open court, followed by the consent of the plaintiff, given in like manner, or the order of the court. The demand must specify the district to which the defendant requires the action to be transferred. The court must make such order when the district in which the action or proceeding is brought is not the proper district, as specified in this section or the next one if such demand be made.

5. All actions by or on behalf of The City of New York to recover a penalty or fine for a violation of any corporation ordinance, when the amount of such penalty or fine shall not exceed five hundred dollars, must be brought in the district in which the violation of such ordinance happened or occurred, and the justice holding court in the same judicial district may direct any of the city marshals to collect the payment and make returns in the same manner as now provided by law. And all actions to recover a penalty or fine for a violation of any provision of the sanitary code **[adopted by the board of health]**

or of any regulation of the fire commissioner or of any laws or ordinances which either [said board or commissioner is] the health or the fire department is authorized, empowered and especially charged to enforce, where the amount of such penalty or fine shall not exceed five hundred dollars, must be brought in the district in which such violation happened or occurred.

Where held.

§ 1371. The said municipal court shall be held in each of the aforesaid districts by a justice of said court as hereinafter specified, at the places provided by the [municipal assembly] commissioners of the sinking fund, and in accordance with law, at such hours in every judicial day or so often as the board of justices of the municipal court shall direct, and must continue in session so long as the public interest requires; and it shall be the duty of the [municipal assembly] commissioners of the sinking fund [within thirty days after the thirty-first day of December, eighteen hundred and ninety-seven,] to provide a suitable place for the holding of said court in each of said districts, provided that more than one place for holding such court may be provided at any time after this act takes effect in any district, if the said board of justices shall certify that the public convenience requires such additional number of places.

Seals.

§ 1372. The said court in each district shall have official seals furnished at the expense of the city, on which shall be engraved the arms of the state of New York and the words "Municipal Court of New York, Borough of Manhattan," (or whatever the borough may be), "First District" (or whatever the district may be), but nothing herein contained shall authorize such court to issue certificates of naturalization.

Clerks and assistant clerks.

§ 1373. There shall be in and for each district a clerk of said court and in each district in the boroughs of Manhattan, Brooklyn [and of] The Bronx, and in the first district of Queens, an assistant clerk, who shall be appointed by the

justice elected [or appointed from] in said district, as hereinbefore provided, and shall hold office for the term of six years from the date of appointment; and before entering upon his duties each such clerk or assistant clerk shall file in the office of the comptroller of The City of New York a bond in the penal sum of five thousand dollars, conditioned for the faithful discharge of his duty and the due accounting for and payment of all money by him received or with him deposited in any action as such clerk or assistant clerk, to be approved by the said comptroller to be endorsed thereon. Each such clerk and assistant clerk shall receive a salary of three thousand dollars per annum, except in the boroughs of Queens and Richmond, wherein the salary of the [clerk] clerks and assistant shall be two thousand dollars per annum each. Such salaries shall [to] be paid in equal, monthly installments; and neither said clerks nor assistant clerks nor other employees of said court shall receive any fee or compensation whatever for their own use for any services performed by them by virtue of their offices other than their salaries; and the duties of such clerks and assistant clerks shall be the same as those now imposed by law upon the clerks and assistant clerks of the district courts in The City of New York. No such clerk, assistant clerk or other employee of such courts shall hold any other office or be interested in any other business, except as permitted by the next section, but shall give their whole time to their respective duties and shall reside in the borough in which the district for which they are appointed respectively is situated. For any breach of said bond the appellate division of the supreme court or any justice of the supreme court in the judicial department wherein the district for which such clerk or assistant clerk is appointed is situated, may order the same to be prosecuted in the name of any person damaged by such breach. The clerks, assistant clerks, stenographers, interpreters and attendants of the district courts in The City of New York and of the justices' courts of first, second and third districts of the city of Brooklyn, who shall be in office on the first day of January, eighteen hundred and ninety-eight, shall continue until the expiration of their respective terms, in the like capacities as officers of the said municipal court. Each justice upon appointing a clerk or assistant clerk shall make duplicate certificates of such appointments, stating the term of the appointment and when

it will expire, and one of such duplicates shall be filed by him in the office of the city clerk, and the other with the secretary of the board of justices provided for in the next section. The said justices shall in like manner also appoint the officers necessary to attend the court in each district, not exceeding three, at an annual salary of one thousand dollars, and a stenographer in and for each district at an annual salary of two thousand dollars. [and in and for each district in the boroughs of Manhattan and Brooklyn an interpreter at an annual salary of twelve hundred dollars.] Each of said attendants and stenographers [and interpreters] shall be appointed for two years or to fill the residue of an unexpired term. The said justices may remove any of said attendants or stenographers [or interpreters], provided that before removal such officers shall have notice of the cause of their proposed removal and an opportunity to make an explanation; and the reasons for any removal shall be briefly entered on such minutes.

Board of justices.

§ 1374. [On and after the first day of January, eighteen hundred and ninety-eight, the] The justices of said court shall constitute the board of justices of the municipal court and discharge the functions thereof. They may elect a president from their own number and at pleasure remove him and elect a successor. All meetings of said board shall be public and all proceedings shall be recorded in its books of minutes by its secretary and shall be preserved. Such board may designate a clerk of said court for one of said districts to act as secretary of said board, and from time to time substitute another and fix a [reasonable] compensation to be paid for such service, not exceeding the sum of five hundred dollars per annum. Such board shall establish public rules relative to its meetings, which as far as possible shall be held at regular times, to the keeping and preservation of its minutes and the appointment of clerks, assistant clerks and other appointees, and to the public inspection of its minutes under the care of the secretary at reasonable times.

Board to make rules.

§ 1375. Said board of justices shall adopt, and from time to time may amend or add to rules relating to the following subjects:

1. As to the justices who shall hold sessions of said municipal court in each of said districts at times and places to be specified in said rules and to provide for a rotation of the justices holding the same, provided that the justices elected or appointed for any borough shall hold court in said borough; but if a vacancy exists, or the illness or other inability of any justice assigned to hold court prevents his attendance, any other justice of said court may hold the same. And if, at any time before or after the commencement of the trial, it shall appear to the satisfaction of the justice that he is a necessary witness on the trial of the cause, or otherwise disqualified to try the same, he shall by an order entered in the cause order the same and the papers in the same to be transferred to an adjoining district, or adjourned to such time as his successor in holding court in said district according to such rules for rotation, may be holding said court as justice may require. Such rules respecting rotation and the designation of justices, shall be published in the City Record in the month of December in each year. [made on or before the twenty-fifth day of January, eighteen hundred and ninety-eight, and shall be published in the City Record, and one newspaper published in each borough at least once before the first day of February.]

2. As to the hours at which said courts shall be opened on each day and what officers shall be in attendance.

3. As to the order of business and manner of its discharge.

4. As to the manner in which the clerks [and] assistant clerks, attendants and employees shall perform their duties, the manner of keeping records and papers, the collection and disposition of moneys and keeping accounts of the same.

5. As to the maintenance of order in and about the courts and offices thereof.

Concurrence of majority.

§ 1376. The concurrence of a majority of all the members of said board shall be necessary to adopt any resolution thereof.

Rules of supreme court applicable.

§ 1377. The rules and regulations of the supreme court, as they may be from time to time, shall apply to the municipal court so far as the same can be made applicable.

Clerks to administer oaths.

§ 1378. The clerks and assistant clerks of the said municipal court are authorized to administer oaths in The City of New York in the same manner and with the like effect as clerks of courts of record.

Justices to administer oaths, etc.

§ 1379. The justices of said municipal court may in The City of New York, by virtue of their office, administer oaths, take depositions and acknowledgments and certify the same in the manner and with like effect as justices of courts 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 said court.

Access to court-houses.

§ 1380. The justices of said court shall have on and after the first day of February, eighteen hundred and ninety-eight, the like access and possession of the court-houses that theretofore were enjoyed by the justices of the district courts and justices of the peace in the territory included within The City of New York as constituted by this act; and it shall be the duty of the [municipal assembly] board of aldermen of The City of New York and its several officers charged with duties in that behalf to supply and pay for whatever may be necessary for the transaction of the business of said municipal court and the justices thereof, and to supply all proper accommodations, books, stationery and furniture, and to pay all salaries, compensations and expenses and disbursements herein authorized, and the board of estimate and apportionment shall annually include in its final estimate such sums as may be necessary to pay the same.

Removal.

§ 1383. The justices of said court and the clerks and assistant clerks thereof may be removed for cause after due notice and an opportunity of being heard by the appellate division of the supreme court in the judicial district wherein the district for which said justices were elected or appointed, or wherein the district for which such clerks or assistant clerks were appointed, is situated.

TITLE 3.

*Inferior Courts of Criminal Jurisdiction.***Division of city for such purpose.**

§ 1390. For the purposes of administration of criminal justice The City of New York, as hereby constituted, is divided into two divisions, as follows: The first division embraces the boroughs of The Bronx and of Manhattan; the second division embraces the boroughs of Brooklyn, Queens and Richmond.

Board of magistrates.

§ 1391. In each of said divisions there shall be a board of city magistrates composed of the city magistrates therein, in office on the first day of January, nineteen hundred and two, and such as thereafter may be appointed pursuant to law. The board for the first division shall consist of twelve magistrates, each of whom shall be a resident and elector within said first division. In filling vacancies occurring after the first day of January, nineteen hundred and two, the mayor shall appoint two magistrates from the borough of The Bronx, so that the board for the first division shall consist thereafter of twelve magistrates, ten of whom shall be residents and electors of the borough of Manhattan and two of the borough of the Bronx. The board for the second division shall consist of thirteen magistrates, eight of whom shall be residents and electors of the borough of Brooklyn, three of the borough of Queens and two of the borough of Richmond.

Appointments and terms of office.

§ 1392. The city magistrates in office on the first day of January, nineteen hundred and two, shall hold office until the expiration of their respective terms. Their successors shall be appointed by the mayor and shall hold office for the term of ten years, to commence on the first day of January next succeeding their appointment. Upon the happening of any

vacancy in said office, whether by expiration of a term or for any other cause, the mayor shall appoint some proper person to fill such vacancy within thirty days after the same occurs; and in case such vacancy occurs otherwise than by expiration of a term, the person appointed to fill the same shall be appointed for the unexpired residue of the term. Upon making an appointment of a city magistrate the mayor shall make three written certificates thereof, each of which shall state the title of the office, the borough and the division from which and the term for which the appointment is made. One of such certificates he shall deliver to the person appointed, and of the others he shall cause one to be filed in the office of the city clerk and one to be filed in the office of the clerk of the county in which is situated the borough from which such person is appointed.

Organization and powers of the boards.

§ 1393. Each board of city magistrates may elect a president from their own number, and at pleasure remove him and elect a successor. All the meetings of such board shall be public, and its proceedings shall be recorded in its books of minutes by its secretary, and shall be preserved. Each board may designate a police clerk to act as its secretary, and from time to time substitute any other; and the salary of such police clerk as such secretary shall not exceed five hundred dollars per annum. Each 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 appointees; and for the public inspection of its minutes, under the care of the secretary, at reasonable times. The concurrence of a majority of all the members of a board of city magistrates shall be necessary to adopt any resolution of said board.

Police clerks [and employees].

§ 1394. The board of city magistrates of the first division shall have the authority and duty of appointing seven police clerks, and the board for the second division shall have the authority and duty of appointing thirteen police clerks, and each board shall regulate the time, place and manner of the discharge of the duty of such police clerks; but the police clerks in office on the first day of January, nineteen hundred and two, shall continue to hold office until the expiration of their several terms. Each police clerk shall be appointed for the term of four years, and, on making the appointment, the board shall cause three certificates to be signed by its president and secretary, each of which shall state the term of the office, the borough and division from which and the term for which the appointment is made, and when it will expire, and the secretary shall deliver one of said certificates to the person so appointed, and shall cause the other certificates to be filed, one in the office of the city clerk, and one in the office of the clerk of the county in which is situated the borough from which such person was appointed. Upon the question of the appointment of a police clerk or other appointee, the members of the board shall vote as their names are called by the secretary, and the vote of each member shall be recorded in the minutes. The salary of each police clerk in the first division, and in the borough of Brooklyn, shall be two thousand five hundred dollars, and in the boroughs of Queens and Richmond two thousand dollars a year, payable monthly, and no such clerk or other officer or employee appointed by a board of city magistrates shall hold any other office or be interested in any other business, but they shall give their whole time to their respective duties, and shall be residents of The City of New York, and of the divisions within which they were appointed, and, in the second division, they shall each be residents of the borough from which they are appointed.

Bond of police clerks.

§ 1395. Before any police clerk appointed, as provided in the preceding section, 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, conditioned for the faithful discharge of his duty as a police clerk and the due accounting for and the payment of all money received by him as such clerk, such bond to be approved by said comptroller, whose approval shall be evidenced by his certificate endorsed thereon.

Other appointees.

§ 1396. The said boards of city magistrates, and each of them, may appoint police clerks' assistants and stenographers. Such appointees, including those in office when this act takes effect, shall hold their respective positions so long as they are faithful, capable and of good conduct, and before removal for want of either or all of said qualifications, the individual against whom charges are made shall have notice thereof, and an opportunity to make an explanation in the presence of the board, and the reasons for any removal shall be briefly entered in the minutes. The police clerks' assistants, and other assistants in any city magistrate's court, shall obey the reasonable directions of the police clerk assigned to that court, subject, however, to the proper orders of the city magistrate presiding and of the board of city magistrates. The number of police clerks' assistants in the first division shall not exceed fourteen, and in the second division shall not exceed sixteen. Police clerks' assistants in the boroughs of Manhattan and The Bronx shall receive a salary not exceeding two thousand dollars per annum; police clerks' assistants in the borough of Brooklyn shall receive a salary not exceeding fifteen hundred dollars per annum. The salary of the stenographers shall not exceed, in the boroughs of Manhattan and Brooklyn, two thousand dollars per annum; in the other boroughs eighteen hundred dollars per annum. Any police clerks' assistants now in office beyond

the number herein allowed shall be removed by the board of city magistrates. There shall be no police clerks' assistants in the boroughs of Queens and Richmond.

Authority to adopt rules.

§ 1397. Each board of city magistrates shall adopt, and may from time to time amend or add to, rules relating to the following subjects:

1. As to the magistrates who shall hold city magistrates' courts at times and places to be specified, and for a rotation of the magistrates holding such courts.

2. As to the hours at which said courts shall be opened on each day, including Sundays and legal holidays, and what officers shall be in attendance.

3. As to the order of business and the manner of its discharge, including the taking of bail and entering into recognizances.

4. As to the manner in which the police clerks and their assistants shall keep complete records of the doings of said courts and magistrates, and perform their other duties.

5. As to the collection and disposition of any moneys by any police clerk, and as to keeping accounts of the same.

6. The board of city magistrates in the first division shall further adopt, and may from time to time amend, rules relative to the organization of a part of the court for the hearing of children's cases as provided in section thirteen hundred and ninety-nine of this act, and to the assignment of magistrates of the first division to hold the said part.

Maintenance of order in courts.

§ 1398. The said boards of city magistrates, and each of them, shall also have power to make needful rules and regulations for the maintenance of order in and about the said city magistrates' courts, and the offices appropriated to the use of the magistrates, clerks and officers thereof, respectively, and all persons wilfully 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. And said boards may make proper provisions by rule to prevent undue publicity of proceedings before any city magistrate 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. Subject to the rules which may be established for the holding of a part for the hearing of children's cases as provided in section thirteen hundred and ninety-nine of this act, a city magistrate shall be in constant attendance in each of the city magistrate's courts between the hours of nine o'clock in the morning and twelve o'clock noon, and between one o'clock and four o'clock in the afternoon on every day except Sundays and legal holidays, but including election day. [and the rules for rotation of magistrates to be made as provided in subdivision one of section five of said chapter six hundred and one of the laws of eighteen hundred and ninety-five shall not require the magistrates appointed in said second division to hold court in any other borough than that for which he was appointed; provided, however, that if a vacancy exists or the illness, absence or other inability of any magistrate assigned to hold any city magistrate's court in either division prevents his holding the same, any other city magistrate in the city of New York may hold such court.]

Establishment of part for children's cases in first division.

§ 1399. The board of city magistrates of the first division shall assign a separate part for the hearing and disposition of cases now within the jurisdiction of said magistrates involving the trial or commitment of children, which part may for convenience be called the children's court; and in all such cases the magistrate holding said court shall have all the powers, duties and jurisdiction now possessed by the city magistrates within said first division. Said children's court shall be held by the several magistrates in rotation in such manner as may be determined by said board, and shall be open on such days

and during such hours as the said board shall in its rules provide. Whenever, under any provision of law, a child under sixteen years of age is taken before a city magistrate in the first division sitting in any court other than the children's court, it shall be the duty of such magistrate to transfer the case to the children's court, if the case falls within the jurisdiction of said court as herein provided, and it shall be the duty of the officer having the child in charge to take such child before that court, and in any such case the magistrate holding said children's court must proceed to hear and dispose of the case in the same manner as if it had been originally brought therein. The board of city magistrates shall appoint a clerk for the children's court and such assistants as may be necessary, whose salaries shall be fixed by the board of aldermen on the recommendation of the board of estimate and apportionment. The said court shall be held, if practicable, in the building in which the offices of the department of public charities for the examination of dependent children are located, or if this shall not be practicable, the court shall be held in some other building as near thereto as practicable, to be selected by the commissioners of the sinking fund. Nothing herein contained shall affect any provisions of law with respect to the temporary commitment by magistrates of children charged with crime or held as witnesses for the trial of any criminal case, or the existing jurisdiction of the court of special sessions.

Court records.

§ 1400. Each police clerk shall keep books of record containing the name and sex, 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 exam-

inations; 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 any other court for trial, and for what cause, and by what magistrate, and at what date; the date at which any fine is paid, by whom, and the amount; the name, residence, age and sex of all persons discharged, by what magistrate, of what charge, and at what date, together with a suggestion of the cause of such discharge; the place and date of filing and the result of the prosecution of recognizances; the name and address of any attorney appearing in respect of any charge or on any hearing, and the reasons for any unusual delay in any proceeding.

Qualifications of city magistrates.

§ 1401. No person shall be appointed to the office of city magistrate unless he shall have been admitted to practice as an attorney and counselor at law in the courts of this state at least five years prior to the date of such appointment, unless he be a city magistrate in office on the first day of January, nineteen hundred and two. No city magistrate shall receive to his own use any fees or perquisites of office; nor shall any such magistrate hold any other public office, or carry on any business, or practice as an attorney or counselor at law in any court in this state, or act as referee or receiver; but each magistrate shall devote his whole time and capacity, so far as the public interests demand, to the duties of his office.

Salaries of city magistrates.

§ 1402. The salaries of the city magistrates now in office, and of their successors, to be paid in equal monthly installments, shall be as follows: The salary for each city magistrate for the first division shall be seven thousand dollars

per annum. The salary of each city magistrate appointed from the borough of Brooklyn, in the second division, shall be six thousand dollars per annum. The salary of each city magistrate from the boroughs of Queens and Richmond shall be five thousand dollars per annum.

Inability of magistrate to act; transfer of charges.

§ 1403. If a vacancy exists in the office of city magistrate, or the illness, absence or other inability of any magistrate, assigned to hold any city magistrates' court in either division, prevent his holding the same, any other city magistrate in The City of New York, may hold such court, and the fact of such vacancy, illness, absence or other inability shall be adequate cause, without further entry upon the record, for the transfer of all pending charges or complaints in said court, if the magistrate appearing and holding such court shall elect to proceed therein. No charge, complaint or person brought before one city magistrate, except as provided in this section or in section thirteen hundred and ninety-nine of this act, shall be sent before another magistrate, except for adequate cause, to be fully and at once entered upon the records kept by the respective police clerks and signed by the magistrate, and no person shall be committed or recommitted for examination save for necessary cause, to be then clearly stated upon the record; the hearing upon any charge shall not be adjourned to another day without the reason therefor being entered upon such record, nor shall any charge be dismissed or any prisoner discharged without record thereof made as above provided.

Appeals from city magistrates.

§ 1404. [1412.] All provisions of law conferring the right of appeal and prescribing the procedure on appeal to the court of general sessions of the peace in the [city and] county of New York from any judgment, order or other determination of a city magistrate [police justice], including a [judgment

of] commitment under section two hundred and ninety-one of the penal code, or of any court held by a city magistrate, in force on the first day of January, nineteen hundred and two [police justice], shall apply to and regulate all appeals [from any judgment or other order or determination of a city magistrate in the county of New York,] and the right of appeal in all cases hitherto existing [to said court of general sessions from such judgment or other order or determination of such city magistrate in the county of New York] is hereby preserved and continued. [; and the like] The right of appeal [is hereby granted and conferred] from any [the] judgment, order or other determination of a city magistrate [elsewhere within The City of New York] in the second division, hitherto existing, to the county court of the county where the [same is made] said judgment, order or other determination is made, is hereby preserved and continued.

Special sessions [in first division] continued.

§ 1405. [1391.] The court of special sessions of The City [and county] of New York [now existing] is hereby continued with the same powers, duties and jurisdiction as it shall have by law on the first day of January, nineteen hundred and two. [thirty-first day of December, eighteen hundred and ninety-seven, except as herein otherwise provided, and shall be known as the court of special sessions of the first division of The City of New York, and the justices of said court, and the clerks, deputy clerks, and other employees thereof then in office, shall continue to hold their offices until the expiration of their respective terms. Their successors shall be appointed in the same manner and have the same salary, powers and duties as are provided by chapter six hundred and one of the laws of eighteen hundred and ninety-five.] The justices of the court of special sessions of the first and second divisions of The City of New York are hereby continued in office until the expiration of the terms for which they have been appointed, and their successors shall be appointed by the mayor for the term of ten years.

Vacancies.

§ 1406. [1402.] Any vacancy in said office shall be filled by the mayor of said city by appointment within thirty days after its occurrence. If such vacancy occur otherwise than by expiration of a term the person appointed to fill such vacancy shall hold office for the unexpired term of the justice whom he succeeds. If the vacancy occur by the expiration of a term, the person appointed to succeed the justice whose term has expired shall hold office for the term of ten years. The salary of the justices of the court of special sessions in the first division shall be nine thousand dollars a year; and in the second division shall be six thousand dollars a year; to be paid in all cases in equal monthly instalments.

Clerks.

§ 1407. Justices of the said court of special sessions for the first and second divisions respectively shall appoint a clerk and deputy clerk of such court. Such clerks and deputy clerks shall respectively hold office for the term of five years from the date of their appointment, and the clerks and deputy clerks now in office shall serve until the expiration of their present terms. The clerk in the first division shall receive a salary of four thousand dollars a year, payable in monthly installments, and the clerk of the second division shall receive a salary of three thousand dollars a year, and payable in equal monthly installments. Any vacancy in the office of clerk or deputy clerk shall be filled by the justice of said court by appointment. If any vacancy shall occur otherwise than by expiration of the term of office, the person appointed to fill such vacancy shall hold office for the balance of the unexpired term of the officer whom he succeeds. The said justices shall also appoint such and so many officers and attendants, including a stenographer, as may be necessary for the due transaction of the business of said court. The said justices may remove the clerk, deputy clerk or any officer or attendant, but no deputy clerk, officer or attendant shall be removed until he shall have had notice of the cause of his proposed removal.

and shall have been afforded an opportunity of making an explanation before said justices or a majority of them and the reasons of any removal shall be entered in the minutes of the court.

Court of special sessions, how held.

§ 1408. [1405.] The court of special sessions of either of said divisions of The City of New York must be held by three of the justices of said court, and any order, determination or judgment of two of said justices shall be the order, determination or judgment of the court. Said court shall sit in every month of the year in said first division and in each of said boroughs of Brooklyn, Queens and Richmond.

Jurisdiction.

§ 1409. [1406.] The said courts of special sessions shall have jurisdiction as follows:

1. Except as otherwise provided in this title, the said courts of special sessions of The City of New York shall have in the first instance exclusive jurisdiction to hear and determine all charges of misdemeanors committed within The City of New York, except charges of libel. Provided, however, that the same shall be tried in the county wherein such misdemeanors are charged to have been committed. The said courts shall, however, be divested of jurisdiction to proceed with the hearing and determination of any charge of misdemeanor in either of the following cases:

First. If, before the commencement of the trial in said court of any person accused of a misdemeanor, a grand jury shall present an indictment against the same person for the same offense; or

Second. If, before the commencement of any such trial, a justice of the supreme court in the judicial department where such trial would be had; or, if the charge be triable in the county of New York, the recorder of the county of New York or a judge authorized to hold a court of general sessions of the peace in and for the county of New York; or, if the charge be triable in another county, a county judge of such county shall certify that it is reasonable that such charge shall be prosecuted by indictment. No such certificate shall be made upon the application of a defendant, without at least two days'

notice to the district attorney, but pending the determination of the application therefor, any justice or judge authorized to make such certificate may order that all proceedings in the court of special sessions, except to admit to bail, be stayed for a period or for successive periods, which shall not in all exceed ten days. Upon the service of said order upon the clerk of the said court of special sessions in the county wherein the charge is triable, all proceedings thereon in said court, except to admit the defendant to bail, shall be stayed until the expiration of the time specified in said order. Upon the filing of the certificate aforesaid with the clerk of the said court of special sessions, in the county wherein the charge is triable, all further proceedings thereon by said court of special sessions shall be stayed, and the said clerk shall within five days thereafter make a return of all proceedings had in the said court of special sessions relating to such charge and transmit such return and all papers relating to such charge, together with said certificate and any undertaking given by the defendant to the district attorney of the county wherein the misdemeanor charged is alleged to have been committed. The said district attorney shall without delay present the said charge to the grand jury of said county.

2. They shall have jurisdiction at the request of a defendant to remit a fine imposed by them and in place of such fine to substitute in their discretion imprisonment.

3. They shall have exclusive jurisdiction in the first instance of all proceedings respecting bastards within The City of New York and the jurisdiction conferred by sections eight hundred and thirty-eight to eight hundred and sixty inclusive of the code of criminal procedure shall be exclusively exercised within said city by said courts. The application specified in section eight hundred and forty of said code of criminal procedure shall be made to the court of special sessions in the county wherein a bastard is born or where the woman pregnant of a bastard likely to be born is.

4. The said court and its justices shall have and exercise all the powers and jurisdiction not inconsistent with this act which on the [thirty-first day of December, eighteen hundred and ninety-seven,] first day of January, nineteen hundred and two, shall by law be vested in the court or justices of special sessions in The City [and county] of New York. [and in the

police courts, police justices and courts of special sessions in any part of the territory embraced within The City of New York as constituted by this act, excepting that conferred upon police justices of the city of Brooklyn by section twenty-two hundred and thirty-four of the code of civil procedure; and the same jurisdiction and powers in all matters relating to the administration of the criminal law not inconsistent with this act which on said thirty-first day of December, eighteen hundred and ninety-seven, shall by law be vested in justices of the peace in any part of said territory.】

Practice.

§ 1410. 【1407.】 On and after the first day of February, eighteen hundred and ninety-eight, all sections of the code of criminal procedure consistent with this act regulating and controlling the practice and procedure of the court of general sessions of the peace in the city and county of New York shall apply, as far as may be, to the practice and procedure in the said courts of special sessions, and shall regulate and control the practice and procedure of said courts in so far as their jurisdiction and organization will permit. All trials in said courts of special sessions provided for by this title shall be without a jury.

Justices to be magistrates.

§ 1411. 【1408.】 The justices of said courts of special sessions are magistrates, and shall have and exercise all the jurisdiction and powers not inconsistent with this act which are by law conferred upon magistrates.

Adoption of rules.

§ 1412. 【1409.】 The justices of said courts of special sessions shall meet and adopt, and from time to time amend or add to rules relating to the following subjects:

1. Regulating the procedure and practice of said courts.
2. Prescribing the duties of the clerks and other officers and attendants of said courts.

Regulation of time, etc.

§ 1413. 【1410.】 The justices of said courts of special sessions of said first and second divisions of The City of New York, respectively, shall meet and adopt and may, from time

to time, amend or add to rules relating to the following subjects:

1. Establishing the times and places at which said court shall be held within each of said divisions, respectively.
2. Assigning the justices to hold said courts from time to time, but if any justice assigned to sit in said court at any time shall be absent any other justice of the court of special sessions in The City of New York may sit in his place and stead.

Appeals from special sessions.

§ 1414. If any judgment or determination made by the said court of special sessions shall be adverse to the defendant, he may appeal therefrom in the same manner as from a judgment in an action prosecuted by indictment, and may be admitted to bail upon an appeal in like manner; and if the judgment of the supreme court upon such an appeal shall be adverse to the defendant, he may appeal therefrom to the court of appeals as prescribed in the code of criminal procedure. In case of any such appeal to the supreme court or to the court of appeals, the procedure in, and the jurisdiction of, the said courts respectively, shall be the same as from a judgment of conviction after indictment.

Duty of district attorney to attend court, etc.

§ 1415. [1411.] It shall be the duty of the district attorney of each of the counties of New York, Kings, Queens and Richmond to attend in person or by an assistant at all sessions of said courts of special sessions within his county. No district attorney or assistant district attorney of the counties of New York or Kings shall appear as attorney or counsel in any action or litigation, except in the discharge of his official duties, nor accept an appointment as referee or receiver in any action or proceeding.

Qualifications of justices of special sessions.

§ 1416. No person shall be appointed to the office of justice of the court of special sessions in The City of New York, un-

less he shall be a resident of the said city and of the division of the city for which he shall be appointed; nor unless he shall have been admitted to practice as an attorney and counselor at law in the courts of this state at least ten years prior to the date of such appointment. No such justice shall receive to his own use any fees or perquisites of office; nor shall any such justice hold any other public office, or carry on any business, or practice as an attorney or counselor at law in any court in this state, or act as referee or receiver; but each such justice shall devote his whole time and capacity, so far as the public interests demand, to the duties of his office.

Possession of court-houses.

§ 1417. [1415.] The city magistrates and the boards of city magistrates and the justices of the court of special sessions [appointed or continuing in office pursuant to this title shall have on and after the said first day of February, eighteen hundred and ninety-five,] shall continue to have the like access and possession in respect to the court-houses [or other places provided for the proceedings of police justices within said city, as hereby constituted, as were theretofore enjoyed by the police justices in the territory embraced within said city as so constituted] as they have hitherto had. And it shall be the duty of The City of New York and its several officers charged with duties in that behalf to supply and pay for whatever may be necessary for the transaction of business of the said city magistrates and courts of special sessions and the justices thereof, and to supply all proper court-houses and accommodations, books, stationery and furniture, and to pay all salaries, compensations, expenses and disbursements that may be herein or otherwise authorized by law [herein authorized by said chapter six hundred and one of the laws of eighteen hundred and ninety-five]; and the board of estimate and apportionment shall annually include in its final estimate such sums as may be necessary to pay such salaries, compensations, expenses and disbursements.

TITLE 4.

*The Marshals.***Marshals of the cities of New York and Brooklyn continued.**

§ 1424. The marshals in The City of New York as heretofore known and bounded, and the marshals and constables in the cities of Brooklyn and Long Island City, and in the several towns mentioned in section one of chapter one of this act, in office at the time this act shall take effect, shall continue to hold such offices and perform the duties thereof until midnight of the thirty-first day of January, eighteen hundred and ninety-eight, and said terms of office shall then expire, except those of the marshals in the late city of New York and the marshals in the late city of Brooklyn, who shall continue to be marshals of The City of New York, as hereby constituted, till the expiration of their respective terms.

Mayor to appoint marshals; term of office.

§ 1425. On or before the twentieth day of January, eighteen hundred and ninety-eight, the mayor of The City of New York shall appoint ten marshals in the manner provided in the next section, who shall hold their respective offices for six years; and there shall be appointed in like manner every sixth year hereafter the same number of marshals for the like terms. Any person appointed after the commencement of the term, as herein prescribed, shall hold only until the expiration of the term and until a successor is duly appointed and has qualified.

Id.; marshals for the boroughs of Queens and Richmond.

§ 1426. Six of said marshals so to be appointed shall be residents of the borough of Queens, and four residents of the borough of Richmond; and said marshals shall be assigned by the mayor to such duty within the boroughs wherein they reside respectively as is or may be provided by law.

Successors to present marshals of New York city.

§ 1427. On the expiration of the terms of said marshals of The City of New York mentioned in the last clause of section fourteen hundred and twenty-four of this act, the said mayor shall appoint their successors for terms of six years respectively.

Powers, duties and fees.

§ 1428. In so far as consistent with this act, the provisions of law relating to the bonds, duties, powers and fees of marshals, and all other matters concerning marshals in The City of New York, in force on the thirty-first day of December, eighteen hundred and ninety-seven, shall apply to the marshals appointed or continued in office pursuant to this title, provided, however, that the bonds of said marshals so appointed pursuant to this title shall be filed in the office of the city clerk, and that in the prosecution of the official bonds of all marshals, application for leave to prosecute the same shall be made to a justice of the supreme court at chambers in the judicial department wherein the borough for which such marshal shall have been appointed is situated, and such leave shall not be granted unless it appears that a transcript of the judgment against such marshal has been filed in the office of the clerk of the county within which such borough is situated, and such justice may order such bond to be prosecuted in the municipal court of The City of New York or in the city court of The City of New York if such borough be within the county of New York or in the county court of the county wherein such borough lies, if in any other county.

Removal of marshals.

§ 1429. The mayor may remove any marshal, after giving him an opportunity to be heard, upon charges in writing preferred against such marshal, and filed with the mayor.

TITLE 5.*Interpreters.***Interpreters.**

§ 1430. The president of the municipal court justices, the president of the board of city magistrates of the first division, the president of the board of city magistrates of the second division, a justice of the court of special sessions of the first division to be selected by the justices of said court, and a justice of the court of special sessions of the second division to be selected by the justices of said court, shall constitute

the board of control of interpreters for the inferior courts. All interpreters of the inferior courts of The City of New York other than The City Court of New York now in office, except those appointed pursuant to chapter six hundred and twenty-three of the laws of eighteen hundred and seventy-five, are hereby continued as such, and shall be subject to the control and supervision of said board of control, and shall report for duty in the court, or courts, to which they may be assigned by said board of control through the president thereof. Said board shall make rules and regulations governing the time and place of service of said interpreters and shall hold them amenable for any infraction of said rules, shall fill all vacancies and make removals for cause after due notice and hearing. The number of interpreters shall not exceed the number from time to time fixed by the board of aldermen on the recommendation of the board of estimate and apportionment. All vacancies in such position shall be filled by appointment by the board of control hereby created.

CHAPTER XXI.

THE ACQUISITION OF LANDS AND INTERESTS THEREIN FOR PUBLIC PURPOSES.

Procedure for acquirement of lands and interests therein.

§ 1435. Whenever The City of New York, or any of the departments, including the department of education, [or] boards or officers of the said city government, shall be authorized by law to acquire title to real estate or any tenements, hereditaments, corporeal or incorporeal rights in the same, for any public use or purpose by condemnation, the proceeding for that purpose shall be taken and conducted in the manner prescribed in this title, except as provided in section fourteen hundred and forty-eight of this act.

Maps to be prepared; entry on premises for examination thereof.

§ 1436. When any such lands have been selected, and the said department [or] board or officer has determined to take proceedings for the acquisition of the same, said department [or] board or officer shall cause two similar surveys, maps, or plans thereof to be prepared, one of which shall be filed in the office of the said department [or] board or officer, and the other of which shall be filed in the office of the register or county clerk of the county in which the lands are situated; and it shall be lawful for the duly authorized agents of the said department [or] board or officer, and all persons acting under his or its authority, and by his or its direction, to enter, in the daytime, into and upon any and all lands, tenements, and hereditaments which it shall be necessary to enter into and upon for the purpose of making such surveys, maps or plans or for the purpose of making such soundings or borings as the said department [or] board or officer may deem necessary.

Appointment and duties of commissioners of estimate.

§ 1437. When the said maps, surveys or plans have been filed as hereinbefore provided, the said department [or] board or officer of the said city acting by and through the corporation counsel of said city, is hereby authorized to make application to a special term of the supreme court, in and for the judicial district in which said lands are situated, for the appointment of commissioners of estimate, and the said court shall thereupon name three discreet and disinterested persons, being residents of The City of New York, as such commissioners of estimate, for the purpose of performing the duties hereinafter mentioned. Ten days' notice of such application, Sundays and holidays excluded, shall be published in the City Record, and the corporation newspapers and also at the option of the corporation counsel in other newspapers, not exceeding three in number, published in said City of New York. Upon the appointment of said commissioners they shall severally take and subscribe an oath or affirmation, before some officer authorized to administer oaths, in the form required by section one of article thirteen of the constitution of this state, which oaths shall be forthwith filed in the office of the clerk of the supreme court in the judicial district in which said lands are situated. It shall be the duty of the said commissioners, after having viewed the said lands, tenements, hereditaments and premises required for public uses and purposes, as above set forth, to make a just and equitable estimate of the loss and damage to the respective owners, lessees, parties and persons respectively entitled to or interested in the said lands, tenements, hereditaments and premises, and to make report thereof to the said supreme court with due diligence.

Reports of commissioners of estimate; presentation thereof to the court; when title to vest in city.

§ 1438. In each and all and every case when the owners, or 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 reports, in general terms, the respective sums to be allowed and paid to the owners and proprietors generally of such lands, tenements, hereditaments and

premises and parties interested therein, for the loss and damage to such owners, proprietors and parties interested in respect of the whole estate and interest of whomsoever may be entitled unto or interested in said lands, tenements, hereditaments and premises respectively, by and in consequence of the taking of the same, as herein provided, without specifying the names of the estate or interests of such owners, proprietors, and parties interested, or either of them, and upon the coming in of the said report, signed by the said commissioners, or a majority of them, the said supreme court at a special term thereof held in and for the judicial district as aforesaid, shall, by order, upon application of the said city, or the said department or board of the government thereof conducting said proceeding, after hearing any matter which may be alleged against the same, either confirm said report in whole or in part or refer the same back 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, as aforesaid, 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, as justice shall require, and such report when confirmed by said court, in whole or in part, shall be final and conclusive, as well upon the said city and the said department or board as upon the owners, lessees, persons and parties interested in and entitled to the lands, tenements, hereditaments and premises mentioned in said report, and also upon all other persons whomsoever. And on the final confirmation of said report, the said City of New York, except as hereinafter provided, shall become and be seized, in fee simple absolute, of the lands included in said report, the same to be converted, appropriated and used to and for the purposes for which the same shall be acquired accordingly. And thereupon the said city, acting by and through the department or board instituting and having charge of said proceeding, shall immediately take possession of the same, without any suit or proceedings at law for that purpose, and all leases and other contracts in regard to the said lands so taken, or any part thereof, and all covenants, contracts or

engagements between landlords and tenants, or any other contracting parties, shall, upon the confirmation of such reports respectively, cease and determine and be absolutely discharged according to law.

When title may be vested by resolution.

§ 1439. Should the department [or] board or officer of the said city government instituting the said proceeding deem it for the public interest that the title to the lands and premises, or any interest therein, required for any public improvement or for any public purpose and acquired hereunder, should be acquired by The City of New York at a fixed or specified time, the said department [or] board or officer may direct, by resolution passed before the application to the court for the appointment of commissioners of estimate, made under section fourteen hundred and thirty-seven of this act, if said resolution be approved by the board of estimate and apportionment by a three-fourths vote, [and] which said resolution and approval shall be recited in the petition for the appointment of such commissioners, that at a date four months after the filing of the oaths of said commissioners, the title to any piece or parcel of land, or to any interest therein, to be taken or acquired in the said proceeding, shall vest in The City of New York. At the expiration of said four months from the filing of said oaths, the said City of New York shall become and be seized in fee of said lands, tenements and hereditaments and all interests therein in said resolution mentioned, that shall or may be acquired as aforesaid, the same to be held appropriated, converted and used to and for the purposes for which the said proceeding is instituted. In such cases interest at the legal rate upon the sum or sums to which the owners, lessees, parties or persons interested in the said real estate or interests therein are justly entitled upon the date of the vesting of title in The City of New York, as aforesaid, from said date to the date of the payment of the award made to such owners, lessees, parties or persons in interest shall be paid as hereinafter set forth. And at the expiration of the said four months and upon the vesting of said title, the said city, acting by and through the said department [or] board or officer conduct-

ing said proceeding, shall immediately take possession of the lands included in the same and the interests thereby affected, without any suit or proceeding at law for that purpose. And all leases and other contracts in regard to said lands so taken, or any part thereof, and all covenants, contracts or engagements between landlords and tenants or any other contracting parties shall, upon the vesting of said title, respectively cease and determine and be discharged according to law.

Notice of deposit and presentation of report; payment of awards with interest.

§ 1440. The said commissioners of estimate, at least fourteen days before they present their report to the supreme court, shall deposit a true report or transcript of such estimate in the office of the department **[or]** board or officer conducting such proceeding, for the inspection of whomsoever it may concern, and shall give daily notice by advertisement in the City Record and the corporation newspapers, and also, at the option of the corporation counsel, in other newspapers, not exceeding three in number, published in said City of New York, for ten days, Sundays and holidays excluded, after depositing such report, of the said deposit thereof in said office, and for the day on which the said report will be presented to said court, and any person or persons whose rights may be affected thereby, and who may object to the same, or any part thereof, may, within ten days after the first publication of such notice, set forth their objections to the same in writing to the said commissioners, who shall, after hearing the parties so objecting, thereupon reconsider their said estimate and 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. The City of New York shall, within two calendar months after the confirmation of the said report, pay to the parties entitled thereto the respective sum or sums so estimated and reported in their favor, respectively, with lawful interest from the date of the confirmation of the report of said commissioners, or if title to said lands shall have vested in the city under section fourteen hundred and thirty-**[eight]** nine of this act, from the date of said vesting; and in default thereof said

persons or parties, respectively, his, her, or their respective heirs, executors, administrators, successors or assigns, may, at any time or times after application first made, by him, her, or them to the comptroller of The City of New York for payment thereof, sue for and recover the same with lawful interest, as aforesaid, and the costs of suit.

Owners unknown, infants, or of unsound mind.

§ 1441. Whenever the owners and proprietors of any lands, tenements, hereditaments and premises 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, 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 said report; or when the said owners, parties or persons respectively, being named therein, can not, upon diligent inquiry, be found, it shall be lawful for the said City of New York to pay the sum or sums mentioned in the report as payable, or that would be coming to such owners, proprietors, parties and persons respectively, into the supreme court, to be secured, disposed of, invested and paid out, as the appellate division of the supreme court, in said judicial district, 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, if they had been known, and had all been present, of full age, compos mentis; and provided, also, that in all and each and every case or cases, where any such sum or sums or compensation, so to be reported by said commissioners in favor of any person or persons, party or parties whatsoever, whether named or not named in said report, shall be paid to any person or persons, party or parties whatsoever, when the same shall of right belong to and ought to have been paid to some other person or persons, party or parties, it shall be lawful for the person or persons, party or parties to whom the said sum or

sums 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. Payment of the compensation awarded by said commissioners of estimate to the persons named in their report (if not infants or persons of unsound mind) shall, in the absence of notice to the comptroller of The City of New York of adverse claims thereto, protect said city. The said commissioners of estimate shall include and set forth in their report the names of the respective owners, lessees, parties and persons entitled unto or interested in said report, and each and every part and parcel thereof, as far as the same shall be ascertained by them, and add a designation and description of such respective lands and parcels of land aforesaid, and also the several respective sums estimated as and for the compensation and recompense or allowance to be made for the loss and damage of the respective owners of the fee or inheritance of such lands, tenements, hereditaments and premises respectively, and for the loss and damage of the respective owners of the leasehold estate, or their interest therein, separately. And the said commissioners shall also include in said report the amount of their fees and all costs and disbursements for expenses of surveys, maps and other things.

Appeal.

§ 1442. Within twenty days after notice of the confirmation of the report of the commissioners as provided for in section fourteen hundred and thirty-eight of this act, any party interested and deeming himself or themselves aggrieved may appeal by notice in writing to the other party, to the appellate division of the supreme court in said judicial district from the appraisal and report of the commissioners. Such appeal shall be heard 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, by the same or new commissioners, in its discretion, but from any determination of the special term, an appeal may be taken upon the merits to the said appellate division of said court, and from any determination of the said appellate divi-

sion any party, if aggrieved, may take an appeal to the court of appeals, but only as to a question affecting the principal of the assessment of damages by the said commissioners. In the case of a new appraisal the second report shall be filed and notice thereof given, and such review, upon appeal or otherwise, be had as in the case of an original report, and so, from time to time, until a report shall be presented which the said court at special term shall finally affirm, and shall be affirmed upon appeal, should any appeal be taken. But the taking of an appeal by any person or persons shall not operate to stay the proceedings under this title except as to the particular parcel of real estate with which the said appeal is concerned. Such appeal shall be heard upon the evidence taken before such commissioners, and any affidavits as to irregularities.

Removal, etc., of commissioners of estimate.

§ 1443. In case of death, resignation, insanity, disqualification, refusal or neglect to act, or removal of any such commissioner of estimate appointed as in this chapter provided, it shall and may be lawful for the court aforesaid, at a special term thereof, held in the judicial district as aforesaid, on the application of the department or board of The City of New York, conducting said proceeding, as often as such event may happen, to appoint a discreet and disinterested person, being a resident of the said City of New York in the place and stead of such commissioner so dying, resigning, becoming insane or disqualified, refusing or neglecting to act, or removed, and the surviving commissioners, as the case may be, shall have full power to proceed in the execution of the duties of their appointment until the successor of the commissioner so dying, becoming insane, resigning, being disqualified, neglecting or refusing to act, or removed, shall be appointed. Ten days' notice of said application shall be given to all parties who have appeared in the proceeding.

Powers of commissioners and of a majority thereof; fees, expenses.

§ 1444. In each and every case of the appointment of commissioners under this act, it shall be competent and lawful for any two of such commissioners, so appointed as aforesaid, 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 if they had acted together 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 valid, binding and effectual as if the said commissioners named and appointed for such purposes had all concurred and joined therein. In the said proceedings any of the said commissioners of estimate may issue subpoenas and administer oaths to witnesses. Each commissioner [The commissioners] appointed under and by virtue of this chapter, who shall enter upon the duties of his [their] appointment, shall [each] be entitled to receive [such compensation as shall be awarded by the court,] upon the confirmation of [their respective reports,] the report or other determination of the proceeding, not exceeding ten dollars for each day upon which [they shall meet and be] he attends a meeting of said commissioners and is actually and necessarily employed in the performance of the duties imposed upon them by this act at the offices provided for said commissioners by the corporation counsel or at a meeting of the commissioners to view the premises, [their duties as commissioners,] besides all reasonable expenses, to be taxed and allowed by said court for maps, surveys, clerk hire and other necessary expenses and disbursements, and the same shall be included in, considered and paid as part of the expenses of acquiring the lands or interest therein for the acquirement of which the said proceeding is instituted.

Amendments of defects.

§ 1445. The special term of the supreme court in the judicial district, as aforesaid, shall have power at any time to amend any defect or informality in any of the special proceedings authorized by this chapter that may be necessary, or to permit any person having an interest therein to be made a party thereto, or to relieve from any default, mistake or irregularity, or to direct such further notices to be given to any party in interest as it deems proper. And the said court may, at any time remove any of said commissioners of estimate who, in its judgment, shall be incapable of serv-

ing, or who shall, for any reason in its judgment, be an unfit person to serve as commissioner. The cause of such removal shall be specified in the order making the same. If in any particular it shall at any time be found necessary to amend any pleading, proceeding, or to supply any defect therein arising in the course of any special proceeding authorized by this act, the same may be amended or supplied in such a manner as shall be directed by the said special term of the supreme court, which is hereby authorized to make such amendment or correction.

Corporation counsel to appear and protect interests of the city.

§ 1446. The corporation counsel shall, either in person, or by such counsel as he shall designate for the purpose, appear for and protect the interests of the city in all such proceedings in court and before the commissioners of estimate.

Source of payment of awards and expenses.

§ 1447. The amounts of the awards made in a proceeding brought under this chapter for the value of lands and interests therein taken hereunder, shall be paid out of the fund created by the act, ordinance or resolution authorizing the acquisition of the said lands or interests therein, and the money for the payment thereof, together with the fees of the commissioners of estimate, the compensation of such necessary clerks or assistants as they may employ, and all other necessary expenses in and about the special proceeding instituted under this chapter, including the fees of counsel employed by the corporation counsel in the proceeding, and all other reasonable expenses incurred by said corporation counsel in the conduct of said proceeding, shall be also paid out of the said fund so provided. Such fees and expenses shall not be paid until they have been taxed at a special term of the supreme court in the judicial district as aforesaid, upon five days' notice to the corporation counsel of The City of New York. Upon such taxation due proof of the nature and extent of the services rendered and disbursements charged shall be furnished and no unnecessary costs or charges shall be allowed. All such costs, fees and expenses or disbursements to be taxed, as aforesaid, shall be stated in detail in the bill of costs and charges and expenses, and shall be accompanied by such proof of the reasonableness and necessity thereof, as is now

required by law and the practice of the said court upon taxation of costs and disbursements in other special proceedings or actions in said court.

What proceedings excepted from provisions of this chapter.

§ 1448. The provisions of this chapter shall not apply to any proceedings for the purpose of opening any streets, avenues or public places, parks or parkways, or to any proceedings for the improvement of or in connection with the water supply of The City of New York, or for the acquisition of lands for sewers or drains as provided in section **[five]** three hundred and **[sixty-one]** ninety-six of this act, or for the acquisition of wharf property for the improvement of the water-front of said city, or to any proceedings, of any nature, instituted prior to the time of the taking effect of this act, and such proceeding shall be conducted in all respects as if this act had not been passed.

CHAPTER XXII.

General Statutes.

【Title 1. The streets.】

【Title 2. Amusements.】

【Title 3. Birds.】

Title 【4】 1. Commercial paper during epidemic.

Title 【5】 2. Pharmacists and druggists.

Title 【6】 3. Board of city record.

Title 【7】 4. General provisions.

Title 【8】 5. Coroners.

TITLE 【4.】 I.

Commercial Paper During Epidemic.

Persons, etc., in infected district may have names, etc., registered by city clerk.

§ 1499. Whenever the board of health shall, by public notice, designate any portion or district of The City of New York as being the seat of any infectious or contagious disease, and declare communication with such portion or district dangerous, or shall prohibit such communication, it shall be the duty of the city clerk 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.

Id.; must register place at which commercial paper to be presented.

§ 1500. 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 city clerk, their names or firms, with the place or places out of such infected

district, but within The City 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.

Commercial paper may be presented at place designated.

§ 1501. 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 nonacceptance and nonpayment of any note, draft or bill, or of protest, for such nonacceptance or nonpayment, may be served by leaving the same at the place so designated.

On failure to register, commercial paper may be presented to city clerk.

§ 1502. 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 city clerk 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.

On failure to register, notice of protest, etc., may be served by leaving at post-office.

§ 1503. In case of the omission to make the registry herein required, all notices of the nonacceptance or nonpayment of any note, draft, or bill, or of protest for such nonacceptance or nonpayment, 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 service shall be as valid and effectual as if the notices had been served personally on such person or one of such firm at his or their usual place of doing business.

When epidemic deemed to have subsided.

§ 1504. 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.

TITLE [5.] 2.

Pharmacists and Druggists.

Registered pharmacists only to conduct pharmacy, except, etc.

§ 1510. It shall be unlawful for any person unless a registered pharmacist 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 of New York as constituted by this act, except as hereinafter provided; provided that the widow or legal representative of a deceased person who was a registered pharmacist within the meaning of this title may continue the business of such deceased pharmacist, provided that the actual retailing, dispensing or compounding of medicines or poisons be only by a person who is a registered pharmacist within the meaning of this title.

Id.; qualifications of registered pharmacists.

§ 1511. 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. But a license as a pharmacist granted any person after the examination by any board of pharmacy legally created under the laws of this state shall entitle such person to a license or certificate of registration from the board of pharmacy created by this title, upon presenting to said board his license and complying with the formal requirements of the laws. Any person who, at the time this act takes effect, shall be entitled by law to open or conduct any pharmacy or store for retailing, dispensing or compounding medicines or poisons

in any part of the territory included in The City of New York, as constituted by this act, shall be entitled hereafter to open or conduct any such pharmacy or store in said city and to be registered by the board of pharmacy created by this title.

Graduates and licentiates defined.

§ 1512. 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, as heretofore existing, established by an act passed March twenty-eighth, eighteen hundred and seventy-one, or before the board of pharmacy in the city of New York, as heretofore existing or before the board of pharmacy of the county of Kings or before the board of pharmacy created by this title, for The City of New York as constituted by this act, or such foreign pharmacists as shall present satisfactory credentials or certificates of their competency and qualifications to the said last-mentioned 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.

Board of pharmacy; election, duties.

§ 1513. The members of the college of pharmacy of The City of New York, which is situated in the borough of Manhattan, the members of the German Apothecaries' Society of New York, and the members of the Kings County Pharmaceutical Society, shall, on the first Monday of January, eighteen hundred and ninety-eight, and on the same day every third year thereafter, at a special meeting held for that purpose, elect five competent pharmacists, who shall form and be known as the board of pharmacy. Of these five members, two shall be elected by the said New York College of Pharmacy, one by the German Apothecaries' Society and two by the Kings County Pharmaceutical Society. The members of

this board shall, within thirty days after their election as aforesaid, individually take and subscribe before the clerk of The City of New York, an oath faithfully and impartially to discharge the duties prescribed for them by this title. They shall hold office for the term of three years and until their successors are duly elected and have qualified; and in case of any vacancy in this board, the organization which elected the member or members whose position or positions have become vacant shall fill such vacancy or vacancies at once by an election at a special meeting. The said board shall organize for the transaction of business by electing from their own number, for the whole term, 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.

Books of registration of pharmacists, etc.

§ 1514. 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 of pharmacy and register, 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, which moneys shall be used for the purpose of defraying the expenses of the board of pharmacy, and three-fifths of any surplus shall be for the benefit of the College of Pharmacy of The City of New York, situated in the borough of Manhattan, and two-fifths of such surplus shall be for the benefit of the Brooklyn College of Pharmacy, situated in the borough of Brooklyn. The salary of the secretary shall be fixed by the board, and shall be paid out of the registration fees.

Pharmacists responsible for quality of drugs, etc., sold, patent medicines, adulteration, etc.

§ 1515. 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.

Poisons; retailing of.

§ 1516. It shall be unlawful for any person to retail any poisons enumerated in schedules A and B, as follows, to wit:

Schedule A—Arsenic and its preparations, corrosive sublimate, white precipitate, red precipitate, biniiodide 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—Aconite, belladonna, colchicum, conium, nuxvomica, henbane, savin, ergot, cottonroot, cantharides, creosote, digitalis, and their pharmaceutical preparations, croton oil, chloroform, chloral hydrate, 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.

Application of preceding sections to practitioners of medicine and wholesale dealers.

§ 1517. 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.

Fraudulent registration, permitting unlicensed person to compound medicines.

§ 1518. 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.

Penalties to be paid to College of Pharmacy.

§ 1519. Three-fifths of each and every penalty recovered under this title shall be paid to the trustees of the College of Pharmacy of The City of New York, situated in the borough of Manhattan, and two-fifths of the same to the Brooklyn College of Pharmacy, situated in the borough of Brooklyn.

The sums so paid to the trustees of said College of Pharmacy of The City of New York 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, and the sums so paid to the said Brooklyn College of Pharmacy shall be known as the library fund of said college, and shall be expended for the purchase of books for the library of said college of pharmacy.

Boards of pharmacy abolished.

§ 1520. The board of pharmacy of the county of Kings and the board of pharmacy in The City of New York as heretofore existing, are both hereby abolished.

TITLE [6.] 3.

A Board of City Record.

City record, board of; publication and contents; newspapers to be designated in which corporate notices to be advertised.

§ 1526. 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. And said City Record, and the newspapers now by law designated as corporation newspapers in the present city of Brooklyn shall be the only papers to be included within the term corporation newspapers as the same is used anywhere in this act; but no notice or advertisement shall be inserted in said newspapers now by law designated as corporation newspapers in said city of Brooklyn, except such as respect matters occurring within or relating to the borough of Brooklyn exclusively; and the aggregate amount to be paid to said newspapers now designated by law as corporation newspapers in said city of Brooklyn, for the publication of all advertisements provided for by this act, shall never exceed in any year the sum now agreed to be paid to said newspapers annually by said city of Brooklyn. The mayor, corporation counsel and comptroller shall constitute the board of city record. Said board, by a majority vote, 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 ex-

penses 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 of New York, not more than two 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 apply for the same, of one copy. Copies of the same shall be sold by the supervisor 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 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 or semi-weekly papers published in the English language, and in one newspaper published in the German language, all in said city, to be designated, at any time, by said board of city record, 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; said designation of such newspapers to continue in effect until another or different designation shall be made by said board. Where such notices and advertisements respect matters occurring within or relating to the borough of Brooklyn, they shall also be published in such newspapers as are now by law designated as corporation newspapers in the city of Brooklyn, the rates of payment therefor not to exceed the compensation now paid to said newspapers for like advertisements in the city of Brooklyn or county of Kings. In case, however, of the sale of bonds or stocks of said city or of any real estate belonging to the

city, such advertisements may be also inserted in such other newspapers published in said city as said board may determine in the case of each sale. 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 members of said board. No money shall be paid from the city treasury, and no action shall be maintained or judgment obtained against The City of New York, as constituted by this act, for any advertising done after April thirtieth, eighteen hundred and seventy-three, except such as is herein authorized or such as at the time this act takes effect is a lawful charge against a municipal or public corporation, or part thereof, hereby consolidated with the mayor, aldermen and commonalty of the city of New York. 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 board of city record 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 county of New York, in the county clerk's office of said county and in the office of the city clerk, and copies of the contents of any part of the same, certified by such register, county clerk or city clerk, shall be received in judicial proceedings as prima facie evidence of the truth of the contents thereof.

Supervisor of city record to arrange lists of registered voters.

§ 1527. It shall be the duty of the supervisor of the city record to cause the lists of registered voters, made and delivered by the chairman 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 elections 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 one hundred and eight 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 to the credit of the general fund.

Printing and stationery to be supplied by contract; City Record to print certain matters.

§ 1528. All printing for said city and for the counties contained within its territorial limits, including the printing of the City Record, shall be executed and all stationery shall be supplied, under contracts, to be entered into by the said board of city record. All proposals for printing and stationery shall be based upon specifications to be filed in the comptroller's office, 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 municipal assembly 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 lowest bidder for any one description of printing, or any article of stationery, involving an expense of more than five hundred dollars. Ten per centum 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 fulfill the same to the satisfaction of said board of city record, then said board may declare said contract to be annulled, and said board 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 of New York as constituted by this act, for printing or stationery done or furnished after April thirteenth, eighteen hundred and seventy-three, ostensibly for the city of New York as heretofore known and bounded, 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 the laws in force at the time this act takes effect 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, wood-cuts, maps, or other picture work, as the same may be required; but nothing herein contained shall be construed to require a separate contract for each engraving, lithograph, or wood-cut, or map, unless the board of city record shall deem the same advisable for the interest of the city. No more than two thousand copies of any message of the mayor, or report of any head of a department, and no more than one thousand copies of any report of a committee of [either branch of the municipal assembly] the board of aldermen shall be printed apart from the City Record. There shall be published in the City Record within the month of January and within the month of July in each year a list of all the officials and employees employed in any of the departments, bureaus or offices of the city government, and of the counties therein contained, who have been or have become such officials or employees during the preceding six months. Said list shall contain the name, residence by street numbers, nature of position or service, date of entrance into the service or employment, date of cessation of such service or employment, if such has occurred during said period, salary or wages, and a distinct statement of the increase or decrease thereof during said period of each of said officials or employees. All changes of such officials or employees, or the amount of their salaries, with a distinct statement of the increase or decrease thereof, shall be so published within one week after they are made. It shall be the duty of all heads of departments or bureaus, or offices not in a department, to furnish to the person appointed to supervise the publication of the City Record, everything required to be inserted therein. It shall be the duty of the said person

appointed to supervise the publication of the City Record, on or before the first days of February and August respectively in each year, to certify to the comptroller that the several lists so required to be furnished have been furnished to him by said heads of department, bureaus, or offices, and the comptroller is hereby forbidden to pay the salary of any such head of department, bureau or office who has not furnished such list until the receipt by said comptroller of such certificate. 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 the rules prescribed by him and approved by the board of city record; 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 works, 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 the printing or supplies of stationery for The City of New York, as constituted by this act, where by the concurrent vote of the mayor, counsel to the corporation and comptroller, 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 terms and conditions as the said officers shall deem to be for the best interests of the city.

TITLE [7.] 4.

*General Provisions.***Officers; not to be [privately] interested in contracts.**

§ 1533. No member of the board of aldermen [municipal assembly], head of department, chief of bureau, deputy thereof or clerk therein, or other officer of the corporation, shall be or become interested, directly or indirectly, [interested] as contracting party, partner, stockholder or otherwise, 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 board of aldermen [municipal assembly; nor]; or 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 as above described 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 for a misdemeanor. All such contracts in which any such person is or becomes interested as above described 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.

Id.; may be summarily examined.

§ 1534. Any member of the board of aldermen [municipal assembly], commissioner, head of department, chief of bureau, deputy thereof or clerk therein, or other officer of the corporation or person, may, if a justice 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 members of the board of aldermen [municipal assembly] 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 in the first or second judicial departments directing such examination to be publicly made at the chambers of said court in either of said judicial departments, 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 member of the board of aldermen [municipal assembly], head of department or other aforementioned officer or person, has knowledge or information. Such member of the board of aldermen [municipal assembly], commissioner, head of department, clerk or other aforesaid 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 judicial department, 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 justice 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 writing, and be filed in the office of the county clerk of such county within the first or second judicial departments as the judge making the order for the examination shall direct at the time of making such order, and the examination so reduced to writing and filed shall be at all reasonable times accessible to the public, and notice of the same shall be given to the department in which said officer is employed.

Barber shops may be open on Sunday.

§ 1535. The provisions of an act to regulate barbering on Sunday, being chapter eight hundred and twenty-three of the laws of eighteen hundred and ninety-five, permitting barber shops or other places where a barber is engaged in shaving, hair-cutting or other work of a barber, to be kept open, and the work of a barber to be performed therein until one o'clock of the afternoon of the first day of the week in The City of New York, as heretofore known and bounded, shall be applicable to and be in full force and effect in all of the territory of The City of New York, as constituted by this act.

Territorial operation of contracts, grants and franchises not extended.

§ 1538. This act shall not extend the territorial operation of any rights, contracts or franchises heretofore granted or made by the corporation known as the mayor, aldermen and commonalty of the city of New York, or by any of the municipal and public corporations which by this act are united and consolidated therewith, including the counties of Kings and Richmond, and the same shall be restricted to the limits respectively to which they would have been confined if this act had not been passed; nor shall this act in any way validate or invalidate or in any manner affect such grants, but they shall have the same legal validity, force, effect and operation and no other or greater than if this act had not been passed.

Price of gas in Richmond and Queens counties.

§ 1539. The price of illuminating gas in the county of Richmond, and in [that part of] the county of Queens, [included within The City of New York, as hereby constituted,] shall not be affected by this act.

Platting of lands and dedication of streets and public places.

§ 1540. No map of the subdivision of lands or the platting thereof into streets or avenues and blocks within the limits of The City of New York shall hereafter be registered or become effectual and binding as a dedication of the streets, avenues or public places on such map or plat until such map or plat has been submitted by the owner to and approved by the board of [public improvements,] estimate and apportionment, which in acting thereon shall examine and determine whether the streets and avenues are of adequate and suitable width and laid out with due reference to connecting streets and avenues. Upon such approval the title of the owner or owners of the land to all streets, avenues and public places designated on the map or plat, shall immediately vest in fee [clear of all incumbrances] in The City of New York in trust for the designated public uses. Such map [or a copy thereof] shall [remain of record in the office of the board of public improvements,] be filed in the office of the president of the borough where the lands affected by said subdivisions are located, and a copy thereof with the approval of the said board endorsed thereon shall be filed and recorded in the office of the registrar of deeds or county clerk of the county in which the land is situated and indexed therein as deeds are now required by law to be indexed. The [municipal assembly upon the recommendation of the board of public improvements,] board of aldermen may from time to time pass appropriate ordinances not inconsistent with law and this act to carry the provisions of this section into effect and regulate proceedings thereunder.

Majority of boards of departments; quorum; powers.

§ 1541. A majority of the members of a board in any department of the city government, and also of the board for the revision of assessments, shall constitute a quorum to fully perform and discharge any act or duty authorized, pos-

essed 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.

Expenses not to exceed appropriation.

§ 1542. It shall be the duty of the heads of all departments and of all officers 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, or any of the counties contained within its territorial limits, 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, or any of the counties contained within its territorial limits, for any sum in excess of the amount appropriated for the several purposes. It shall be lawful, however, for the board of estimate and apportionment in its discretion, and upon the certificate of the district attorney of any such county that the public interests demand for the proper conduct of a criminal action of exceptional difficulty that an additional appropriation be made for that purpose, to make such appropriation and to authorize the comptroller to issue special revenue bonds to provide the necessary means therefor.

Heads of departments; control over subordinates; removal.

§ 1543. The heads of all departments and all borough presidents (except as otherwise specially 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, 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 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 or borough president. In case of removal, a statement showing the reason therefor shall be filed in the department. The number of all officers, clerks, employees, laborers and subordinates in every department shall be such as the heads of the respective departments and borough presidents shall designate and approve, not exceeding the number limited by any ordinance of the board of aldermen. The duties of all such officers, clerks, employees, laborers and subordinates shall be such as the heads of the respective departments and borough presidents shall designate and approve, subject to the provisions of law and to the ordinances of the board of aldermen. The salaries or wages of all such officers, clerks, employees, laborers and subordinates in every department shall be such as shall be fixed by the board of aldermen upon the recommendation of the board of estimate and apportionment in the manner provided in this act. [The numbers and duties of all officers and clerks, employees and subordinates in every department, except as otherwise herein specially 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 or borough president, 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. Every head of department or borough president and every officer of any of the counties contained within the territorial limits of The City of New York, is empowered to make ratable deductions from the salaries and wages of the employees and subordinates of his department or office on account of absences from duty without leave; provided, however, that nothing contained in this section shall affect departments or officers as to which other provision is made by this act for deductions for absences or disciplinary fines and penalties. Wherever in any department or institution an office, position or employment is abolished, or made unnecessary through the operation of this act, or in any other manner, or whenever the number of offices, positions or employments of a certain character is reduced, the person or persons legally holding the office or filling the position or employment thus abolished or made unnecessary shall be deemed to be suspended without pay, and shall be entitled to reinstatement in the same office, position or employment, or in any corresponding or similar office, position or employment, if within one year thereafter there is need for his or their services. Whenever such offices, positions or employments are abolished or made unnecessary, it shall be the duty of the head of the department or institution to furnish the names of the person or persons affected to the municipal civil service commission, with a statement in the case of each of the date of his original appointment in the service. It shall be the duty of the municipal civil service commission forthwith to place the names of said persons upon a list of suspended employees for the office, or position or for the class of work in which they have been employed, or for any corresponding or similar office, position or class of work, and to certify the said persons for reinstatement, in the order of their original appointment, before making certifications from any other list. The failure of any person on any such list for reinstatement to accept

after reasonable notice an office or position in the same borough and at the same salary or wages as the position formerly held by him shall be held to be a relinquishment of his right to reinstatement as herein stated.

Id.; to render reports; publication.

§ 1544. The said departments, borough presidents and all commissioners appointed by the mayor, pursuant to the provisions of this act, and not constituting heads of 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 departments, borough presidents, and commissioners shall always, when required by the mayor, furnish to him such information as he may demand, within such reasonable time as he may direct.

Id.; to furnish copies of papers on demand.

§ 1545. The heads of all departments, except the police and law departments, and the chiefs of each and every bureau of said departments, or any of them, except the police and law departments and all borough presidents, 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 and law departments, 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 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.

Records to be kept and abstracts published.

§ 1546. In every department, office of a borough president 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 abstracts 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.

Certificates of appointments.

§ 1547. 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.

Official oath.

§ 1548. Every person elected or appointed to any office under the city government shall, within five days after notice of such election 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 city clerk.

Officer not to hold any other civil office.

§ 1549. 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 any 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 the office of supervisor, or when he holds such office ex officio, by virtue of an act of the legislature; and in such case shall draw no salary for such ex officio office.

Officers; when may receive and retain fees.

§ 1550. 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 any 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 city officer who is paid a salary for his services from the city treasury shall receive to or for his own use any fees, costs, allowances, perquisites of office, commissions, percentages, or moneys paid to him in his official capacity; but all fees, costs, 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 to 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. [But nothing herein contained shall be construed as prohibiting the receipt of fees by any public officer on account of the collection of the inheritance tax as now provided by law, or as repealing the provisions of chapter two hundred and ninety-nine of the laws of eighteen hundred and ninety-two.]

Id.; defrauding.

§ 1551. 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.

Money not to be paid to sectarian schools; public property; how disposed of.

§ 1552. No money belonging to the city 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, 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 be leased to any school under the control of any religious or denominational institution, except upon such terms as the city property may be leased to private parties after the same has been duly advertised.

Property to be sold at auction.

§ 1553. 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.

Patented articles; how supplied.

§ 1554. 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.

Special provision as to papers formerly filed in offices of town clerks.

§ 1555. Except as otherwise provided by this act, all papers now required by law to be filed and recorded in the town clerk's office in any of the towns by this act united and consolidated into The City of New York, shall after this act takes effect, be filed and recorded in the office of the clerk of the county in which such town is situated, and all such papers filed and recorded in any town clerk's office of such towns, and the records thereof shall, immediately after this act takes effect, be deposited in such county clerk's office by the town clerks of such towns, and shall remain of record therein.

Code of ordinances; when to be prima facie evidence.

§ 1556. A code or other volume containing either the ordinances [and] or by-laws of the city published by authority of the [municipal assembly] board of aldermen shall be prima facie evidence in all courts of justice of the authenticity of such ordinances [and] or by-laws.

Responsible guaranty company may act as surety.

§ 1557. Wherever this act provides for the giving of an official bond with surety or sureties, such surety or sureties may consist of a responsible guaranty company, provided the same shall be satisfactory to, and be approved by, the officer or officers, or body whose duty it is to approve such bond or sureties.

Tenure of office.

§ 1558. All officers elected or appointed under this act shall, unless otherwise expressly provided and unless sooner removed, hold their respective offices until their successors are respectively elected or appointed and have qualified.

Publication to be made in City Record, unless otherwise provided.

§ 1559. All publications required by this act shall, unless otherwise provided, be published in the City Record, and one publication therein shall be sufficient, unless it is herein otherwise prescribed.

Officers or employees not to be members of political associations, etc.

§ 1560. No officer, subordinate or employee of The City of New York or of any of the counties comprised within its territorial limits, who receives compensation for his services, shall be a member of any political party committee created or existing by law, or be a member of a committee or an officer of any organization or association of citizens for the election of city officers, or be a delegate to or representative in any political party convention; and any person violating the provisions of this section shall be guilty of a misdemeanor, and upon conviction shall forfeit the office, employment or position held by him, and shall also be punished by a fine not exceeding five hundred dollars or by imprisonment for a term not exceeding one year. Any violation of the provisions of this section by any person shall be sufficient cause for the removal of such person from his office by any officer or authority that under the provisions of this act has power to remove such a person for cause; and on evidence satisfactory to the municipal civil service commissioners by the declaration of any

person or otherwise that he has violated any of the provisions of this section, they shall strike the name of any such person from the list of those who would otherwise be entitled to promotion under the provisions of existing laws or rules applicable to the civil service of the city.

Pensioners not to hold offices, etc.

§ 1561. No person now receiving or who may hereafter receive any pension from The City of New York or any of the departments thereof, or out of any fund under said city or any of its departments, shall hold any office, employment or position under The City of New York or any of the counties included within said city. Any officer, subordinate or employee of said city or any of its departments or any of the counties included within said city now in receipt of any such pension shall forthwith forfeit such office, position or employment.

Officers and employees not to perform work outside public employment.

§ 1562. No officer or employee of The City of New York or of any of the counties comprised within its territorial limits, shall detail or cause any officer, employee or subordinate of the city or of any of said counties to do or perform any service or work outside of his public office, work or employment; and any violation of this section shall constitute a misdemeanor punishable by a fine of not more than five hundred dollars, or by imprisonment for not more than one year.

Waters and shores to be kept pure and clean.

§ 1563. No swill, garbage, dead animals, decayed or other vegetables or fruits, bedding or refuse or rubbish of any kind or any light or offensive soil or material that will not settle in the water when dumped shall be dumped or deposited in the waters of the port of New York or in the ocean, sea, 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 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 calculated to defile or to render unclean the coast or shores of The City of New York, be cast, thrown, placed, deposited or suffered or permitted to be placed or deposited 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. 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 the 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; nor 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. Any pilot, harbor master or port warden of the port of New York, the police of The City of New York, or any city marshal or constable within The City of New York, shall have power to arrest all persons and deliver into custody any person or persons taken in the act of violating any of the provisions of this section.

Illegal to assist in towing or sailing vessels laden with garbage, etc.

§ 1564. 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, 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 for the purpose of being dumped or deposited in said waters; and it shall not be lawful for any steam vessel to tow or carry any of the articles mentioned in this or the last section.

Penalties for violation of two last sections.

§ 1565. Any person offending against the provisions of the two preceding sections shall be deemed guilty of a misdemeanor, and liable to imprisonment for a term of not less than six months or 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 the city or 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. The owner or owners or charterer of any vessel used in violation of the preceding sections shall be liable to The City of New York in a penalty of one thousand dollars for each offense, and an action may be brought for the recovery thereof in the name of The City of New York.

Public armories; armory board; president of the board of aldermen to be a member of; its duties.

§ 1566. All powers and duties relating to the construction, repairs and maintenance of and to public armories in The City of New York, and to the purchase of supplies therefor, so far as the same have heretofore been conferred upon the commissioner of public buildings, lighting and supplies by chapter two hundred and twelve of the laws of eighteen hundred and ninety-eight, known as "the military code," are hereby devolved upon the armory board having jurisdiction within The City of New York as in said military code provided. The powers and duties heretofore exercised by the commissioner

of public buildings, lighting and supplies as a member of said armory board are hereby devolved upon the president of the board of aldermen, who shall be a member of said armory board.

TITLE [8.] 5.

Coroners.

Coroners to be elected in the boroughs.

§ 1570. [Four] Two coroners shall hereafter be elected in the borough of Manhattan, two in the borough of The Bronx, two in the borough of Brooklyn, [three] one in the borough of Queens and [two] one in the borough of Richmond. They shall be elected in the same manner and at the same general elections as are the sheriffs in the several counties in which such boroughs are situated, shall hold their respective offices for the term of four years and shall be removable in the same manner as sheriffs. The coroners in the borough of Manhattan shall hereafter keep open on every day in the year, including Sundays and legal holidays, the coroner's office in such borough, with a clerk in constant attendance at all times of the day and night.

Id.; officers and subordinates provided for; salaries and compensation.

§ 1571. The coroners in each borough shall have an office in said borough and shall appoint a clerk who shall receive an annual salary to be fixed by the board of estimate and apportionment and the [municipal assembly] board of aldermen, and such and so many assistant clerks as shall be provided for in the annual [estimate] budget. They shall also appoint a stenographer in each borough whose duty it shall be to take accurate and full stenographic minutes and transcribe the same, of all proceedings and testimony taken before a jury in any coroner's court, held by any one of said coroners. Each of said coroners shall possess all the powers and perform all the duties vested in or imposed upon coroners by any existing laws relating to coroners in The City of New York as heretofore known and bounded, or by any law of this state. The salaries or other compensation of said coroners shall be fixed by the board of estimate and apportionment and the [municipal assembly] board of aldermen.

CHAPTER XXIII.

PROVISIONS RELATING TO THE COUNTIES AND REPEAL PROVISIONS.

Title 1. Provisions relating to the counties.

Title 2. Repeal provisions.

TITLE I.

Provisions Relating to the Counties.

Wards in the borough of Brooklyn; how designated.

§ 1577. The wards of the former city of Brooklyn are hereby continued, with their present boundaries and numbers, and shall be known and designated as wards of the borough of Brooklyn.

Wards in boroughs of Manhattan and The Bronx; how designated.

§ 1578. The wards of the corporation heretofore known as the mayor, aldermen and commonalty of the city of New York are hereby continued, with their present boundaries and numbers, and shall be known and designated as wards of the borough of Manhattan and The Bronx, respectively.

Towns and villages in Richmond county abolished.

§ 1579. The five towns and all the incorporated villages within the county of Richmond are hereby abolished.

Wards in the borough of Richmond.

§ 1580. The territory included within the towns of Castleton, Middletown, Northfield, Southfield and Westfield, in the county of Richmond, shall, in the order named, be known and designated as wards one, two, three, four and five, respectively, of the borough of Richmond.

Towns in Queens county abolished; wards in borough of Queens.

§ 1581. The towns of Newtown, Flushing and Jamaica, and all the incorporated villages in that part of the county of Queens included within The City of New York, as constituted by this act, are hereby abolished. The territory heretofore known as Long Island City shall be known as ward one of the borough of Queens; the town of Newtown as ward two of said borough; the town of Flushing as ward three; the town of Jamaica as ward four; and that part of the town of Hempstead included within The City of New York, as constituted by this act, shall be known as ward five of the said borough of Queens. But the supervisors of said towns who are in office when this act takes effect shall serve out their respective terms of office as supervisors of the wards in which they respectively reside, and shall continue to be members of the board of supervisors of the county of Queens.

[Municipal assembly] Board of aldermen; power to change boundaries.

§ 1582. The [municipal assembly] board of aldermen may from time to time by ordinance change the boundaries of wards and create other wards as the public good and convenience may require.

Salaries of county officers in New York, Richmond, Queens and Kings counties; how met.

§ 1583. The salaries of all county officers in the counties of New York, Kings, Queens and Richmond shall unless otherwise provided by law be fixed by the board of aldermen on the recommendation of the board of estimate and apportionment, [subject to approval by the municipal assembly] and all county charges and expenses and salaries of county officers in said counties and each of them shall be audited and paid by [The City of New York, in the same manner as the salaries of city officers and city charges are paid] the department of finance out of the fund or appropriation applicable thereto, and the audit of said department in respect to such charges and expenses shall extend to the reasonableness thereof and shall be, in all respects, as full and complete as the audit of city charges and expenses provided for by section one hundred and forty-

nine of this act; but nothing in this section contained shall be construed as in any way changing or modifying the provision contained in section nine hundred and two of this act, to the effect that the sums necessary to defray the salaries of county officers and to pay county charges and expenses in said counties shall be levied and assessed upon the property of said four counties, respectively, so that each shall ultimately bear and pay all its own county charges, nor to affect the county of Queens until after the thirty-first day of December, eighteen hundred and ninety-nine.

Election of county officers required by the constitution not affected.

§ 1584. Nothing in this act contained shall be deemed to interfere with or hereafter prevent the election, under and pursuant to laws relating thereto, of all county officers required by the constitution of the state, to be elected in either of the counties, in whole or in part, included within The City of New York, as constituted by this act.

Public administrator of the county of New York.

§ 1585. Upon the taking effect of this act, the official designation of the public administrator in the city of New York, as heretofore known and bounded, shall be the public administrator of the county of New York, and such officer shall continue a county officer with the powers, duties and obligations now prescribed by law, and the present provisions of law and the present ordinances relating to said public administrator shall not be affected by anything herein contained.

Devolution of powers vested in boards of supervisors in New York, Kings, Queens and Richmond counties.

§ 1586. [All powers of local legislation and administration in the counties of New York, Kings, Queens and Richmond which are not, at the time of the taking effect of this act, vested in boards of supervisors of said counties by an act, entitled "An act to provide for boards of supervisors in counties wholly within the limits of a city, but not comprising the whole of such city, and defining the powers and duties thereof," or which are not vested in other county officers required by the constitution of the state to be maintained in said four counties, respectively, are hereby vested in the municipal assembly of The City of New York, as constituted by this act, except where otherwise vested

by this act in administrative departments or officers of said city. And in the county of Queens the board of supervisors heretofore elected shall exercise their duties as supervisors of the county up to and including the thirty-first day of December, eighteen hundred and ninety-nine, their audits and expenditures however to be limited to the amount of appropriations or sums now or heretofore included in the budgets of The City of New York or the county of Queens and said supervisors shall possess no power to raise any further sums upon the credit of the county nor to incur any new liability on behalf of said county except as herein specifically provided.] Any and all of the powers and duties of the several boards of supervisors heretofore existing in any of the counties within the territory of The City of New York not transferred or devolved upon administrative departments, boards, commissions, officers or other functionaries, are hereby vested in the board of aldermen of The City of New York.

The office of county treasurer in the counties of Kings, Queens and Richmond abolished.

§ 1587. The office of the county treasurer of the county of Richmond is hereby abolished, and after the thirty-first day of December, eighteen hundred and ninety-nine, the office of the county treasurer of the county of Queens shall cease to exist, and after the thirty-first day of December, nineteen hundred and one, the office of county treasurer of the county of Kings shall cease to exist, and all the powers, duties and obligations of said county treasurers are hereby devolved upon the comptroller of The City of New York as constituted by this act, except as otherwise provided by section one hundred and ninety-seven of this act. The clerical force and employees of the county treasurer of Kings county shall be assigned by the comptroller of The City of New York on January first, nineteen hundred and two, to corresponding positions and duties in the department of finance as nearly as may be without prejudice or advantage; provided, however, that nothing herein contained shall be construed to repeal, limit, modify or abridge any provisions of law or civil service regulations relative to the removal of subordinates by public officers or heads of depart-

ments, nor to affect the right of abolishing unnecessary positions.

Disposition of real and personal property owned by or held in trust for the town of Hempstead.

§ 1590. All the real property owned by the town of Hempstead and situated in that part of said town included within The City of New York, as constituted by this act, is hereby vested in the said city of New York and divested out of the town of Hempstead, and all of the real property owned by the town of Hempstead and situated elsewhere in said town is hereby vested in the town of Hempstead and divested out of the said city of New York. All of the property owned by the town of Hempstead other than real property, including money, investments, securities on investments and money held in trust for the benefit of said town, directly or indirectly, shall be divided between the said town and The City of New York, as constituted by this act, and the proportion of the same to which each shall, in equity and good conscience, be entitled to receive upon such division, shall be ascertained and determined by agreement by and between the town board of the town of Hempstead, upon the one side, and the mayor and the municipal assembly of the said city of New York, upon the other side, and in case of their inability to agree upon such division within six months after this act shall take effect, the supreme court in the third judicial district is hereby empowered to divide the same between them and to ascertain and award to each its equitable proportion thereof, and to enforce its determination thereon, and either of the said municipalities may institute and prosecute, in its own name, an action in equity in said court for that purpose after the expiration of six months and before the expiration of one year after this act takes effect.

Proportion of funds and moneys received by the city which should be returned to Queens county, or paid to the comptroller of the state; how determined.

§ 1591. The mayor and municipal assembly of The City of New York, as constituted by this act, and the board of supervisors of the county of Queens, are also author-

ized and empowered to determine what proportion of the funds and moneys that may be received by The City of New York, pursuant to the provisions of this act, from any officer of any of the municipal and public corporations or parts of municipal and public corporations within the county of Queens, and hereby consolidated with the corporation heretofore known as the mayor, aldermen and commonalty of the city of New York, should be refunded or repaid to the county of Queens, as representing taxes levied and assessed for the payment of county charges and expenses within said county, and in like manner what proportion of said moneys that may be so received, were levied for state taxes payable by said county of Queens for the year eighteen hundred and ninety-eight, and should therefore be turned over to the comptroller of the state in payment and discharge of said county's obligation to the state in that regard for the year eighteen hundred and ninety-eight. If the mayor and the municipal assembly, and the said board of supervisors of the county of Queens be unable within three months after this act takes effect to agree as to any or either of said matters, then the supreme court of the third judicial district shall have power to determine in each case where a disagreement occurs upon said matters, and each of them, and to enforce such determination and decision in a suit in equity, to be brought in the name of the supervisors of said county of Queens, or of the comptroller of the state, as the case may be, not less than six months nor more than one year after this act takes effect.

Comptroller of state to transmit to the city a statement of the state tax to be paid by New York, Kings, Queens and Richmond counties; how levied and collected.

§ 1595. It shall be the duty of the comptroller of the state annually to transmit to the comptroller of The City of New York, as hereby constituted, for levy and collection by said city, a statement of the amount of tax for state purposes to be paid by the counties of New York, Kings, Queens and Richmond, respectively. The amount, of which a statement is thus transmitted by the comptroller of the state to the comptroller of said city, shall be levied upon and collected from the entire property within the territorial limits of said city in like manner as other expenses of said city.

TITLE 2.

*Repeal Provisions—Effect of this Act.***Inconsistent provisions of consolidation act repealed.**

§ 1608. The act of the legislature of the state of New York, passed July first, eighteen hundred and eighty-two, known as the New York city consolidation act of eighteen hundred and eighty-two, and acts amendatory thereof, and supplemental thereto, and other acts of the legislature of the state of New York now in force relating to or affecting the local government of The City of New York, as heretofore constituted, are hereby repealed so far as any provisions thereof are inconsistent with the provisions of this act, or so far as the subject matter thereof is revised or included in this act, and no further. So far as the provisions of this act are the same in terms or in substance and effect as the provisions of the said consolidation act, or of other acts of the legislature now in force relating to or affecting the municipal and public corporations, or any of them herein united and consolidated, this act is intended to be not a new enactment, but a continuation of the said consolidation act of eighteen hundred and eighty-two, and said other acts, and is intended to apply the provisions thereof as herein modified to The City of New York as herein constituted, and this act shall accordingly be so construed and applied.

Omission of previous acts not to be construed as repealed.

§ 1609. The mere omission from this act of any previous acts or of any of the provisions thereof, including said consolidation act of eighteen hundred and eighty-two, relating to or affecting the municipal and public corporations or any of them which are herein united and consolidated, shall not be held to be a repeal thereof.

Acts applicable to The City of New York.

§ 1610. All the provisions of all acts of the legislature of the state of New York, including said consolidation act of eighteen hundred and eighty-two, of a general and permanent character, relating to the corporation heretofore known as the mayor, aldermen and commonalty of the city of New York, in force at the time this act goes into effect, which are con-

sistent with this act and its purposes, and which are not revised and included in or the subject matter thereof covered by this act, are hereby extended to The City of New York as herein constituted, so far as they are consistent with this act, and are not in their nature locally inapplicable to other portions of the city than the corporation heretofore known as the mayor, aldermen and commonalty of the city of New York. And the provisions of law thus extended to The City of New York as herein constituted shall apply to said city throughout its whole extent, anything to the contrary notwithstanding contained in the charter of any of the municipal or public corporations or laws relating thereto, which are by this act united and consolidated with the corporation heretofore known as the mayor, aldermen and commonalty of the city of New York.

To take effect January 1, 1898.

§ 1611. For the purpose of determining the effect of this act upon other acts and the effect of other acts upon this act, this act shall, except as in this section is otherwise provided, be deemed to have been enacted on the first day of January, in the year eighteen hundred and ninety-eight. This act shall take effect on the first day of January, eighteen hundred and ninety-eight; provided, however, that where by the terms of this act an election is provided or required to be held or other act done or forbidden prior to January first, eighteen hundred and ninety-eight, then as to such election and such acts, this act shall take effect from and after its passage, and shall be in force immediately, anything in this chapter or act to the contrary notwithstanding.

Invalidity of one section not to invalidate any other section.

§ 1612. The invalidity of any section or provision of this act shall not invalidate any other section or provision thereof.

Interregnum; how prevented.

§ 1613. To guard against the inconvenience and effects that might arise from the changes in local government effected by this act, and to prevent an interregnum, and otherwise to carry out the purposes and provisions of this act, it is hereby enacted that until this act and its several provisions shall take effect all existing acts shall remain in force, and all officers in office when this act takes effect shall remain in office until their

successors are respectively elected and appointed and shall have qualified under the provisions of this act. And for the purposes aforesaid as well as for any other purpose necessary or proper to effectuate the scheme and objects of this act, and to carry into effect the powers granted by this act to The City of New York, the municipal assembly shall have power by ordinances to make from time to time all such provisions concerning the local rule and government of The City of New York as herein constituted, and each and all of its departments as it may find necessary or deem needful not inconsistent with the constitution and laws of the state and the express provisions of this act.

Existing rights and remedies preserved.

§ 1614. No right or remedy of any character shall be lost or impaired or affected by reason of this act. This act shall not affect or impair any act done or right accruing, accrued or acquired, or penalty, forfeiture or punishment incurred prior to the time when this act takes effect or by virtue of any laws repealed or modified by this act, but the same may be asserted, enforced, prosecuted or inflicted as fully and to the same extent as if this act had not been passed or said laws had not been repealed or modified; and all actions, suits, proceedings or prosecutions under the New York city consolidation act of eighteen hundred and eighty-two, or amendments thereof, or other laws relating to The City of New York and herein repealed or modified, or under any charter or law relating to any of the municipal and public corporations which are herein united and consolidated, and pending when this act takes effect, including the counties of Kings and Richmond, may be prosecuted and defended to final effect in the same manner as they might under the laws then existing, unless herein otherwise specially provided; and such actions, suits, proceedings or prosecutions may be continued without change of name or title, or on motion The City of New York may be substituted as plaintiff or defendant, as the case may be, in the place of the existing party to whose rights and obligations the said City of New York has by force of this act succeeded. The corporation counsel shall assume the charge, direction and control of all such actions, suits and proceedings in behalf of The City of New York. All future suits by or against The

City of New York as herein constituted or against any of the municipal and public corporations in this act united and consolidated shall be in the corporate name of "The City of New York."

Powers of corporations consolidated devolved upon The City of New York.

§ 1615. Upon the taking effect of this act on the first day of January, eighteen hundred and ninety-eight, all the municipal and public corporations, except counties, which by this act are consolidated with the corporation heretofore known as the mayor, aldermen and commonalty of the city of New York, shall cease and determine, and their powers to the full extent of legislative power in this behalf are respectively devolved upon the corporation of The City of New York as herein constituted and the municipal assembly thereof, unless otherwise expressly provided in this act or by law. And all offices forming part of the local government of the said municipal and public corporations and parts thereof, including cities, villages, towns and school-districts, but not including counties, which, by the first section of this act, are united and consolidated into The City of New York as herein constituted, are hereby abolished as to all the territory embraced within the limits of said city, except as herein otherwise expressly provided. The foregoing does not include the office of recorder of the former city of New York, which is hereby continued under the name and title of recorder of the county of New York.

Forfeiture or loss of property not worked.

§ 1616. Neither the above nor any other provisions of this act shall work any forfeiture or loss of any property or rights therein or relating thereto held in trust by said municipal and public corporations or any of them, or to which they or any of them are or may be entitled; and The City of New York as herein constituted is hereby declared to be the successor in respect of such property and rights of the said municipal or public corporation to which the same was granted; and the said city of New York shall hold the same, as well as all other property and rights to which such corporation may be entitled, as successor, on the same trusts and charged with the

same duties as the municipal or public corporation to which it was granted.

Franchises and other grants not affected.

§ 1617. Neither this act nor anything contained therein shall affect any grants of franchises or properties or rights of any nature in, to or concerning property of any character or other grants made by the Nicolls' charter, the Dongan charter, the Cornbury charter, the Montgomerie charter, by the confirmatory act passed the fourteenth day of October, seventeen hundred and thirty-two, or by any other charter or act granted to the corporation known as the mayor, aldermen and commonalty of the city of New York, by the state of New York, or granted by said state to the city of Brooklyn or to any of the other municipal and public corporations which are herein united and consolidated into The City of New York, and each and all of said grants are to all intents and purposes hereby ratified, granted, confirmed and extended to The City of New York as constituted by this act.

This act; how repealed or amended.

§ 1618. This act or any section or provision thereof shall not be deemed to be repealed or amended by any act of the legislature, unless it be so expressly stated, or the legislative intention to that effect is unmistakable.

Chapter 942 of the Laws of 1896 not repealed.

§ 1619. Nothing in this act contained shall be deemed to repeal the provisions of chapter nine hundred and forty-two of the laws of eighteen hundred and ninety-six.

This act a public act.

§ 1620. This act, providing for uniting into one municipality various communities, including the city and county of New York, the city of Brooklyn, the county of Kings, the county of Richmond, and part of the county of Queens with the municipal and public corporations therein, as in this act provided, is intended to be and shall be deemed and held in all courts and jurisdictions to be a public act, of which the courts shall take judicial notice. And this act shall be construed not as an act in derogation of the powers of the state but as one intended to aid the state in the execution of its

duties by providing, subject to the constitution and laws of the state and the provisions and limitations herein contained, an adequate scheme of local government for the communities and people affected, through the instrumentality of the corporate body herein constituted under the name of "The City of New York."

Section Two. The several sections of the said chapter three hundred and seventy-eight of the laws of eighteen hundred and ninety-seven, the numbers and titles of which are set forth in the first schedule annexed to this act, entitled "*The First Schedule. Sections of the Greater New York Charter repealed,*" are and each of them is hereby repealed. The repeal of any of the sections mentioned in the said First Schedule shall not affect or impair any act done or right accruing, accrued or acquired, or penalty, forfeiture or punishment incurred prior to January first, nineteen hundred and two, under or by virtue of the sections so repealed, but the same may be enjoyed, asserted, enforced, prosecuted or inflicted as fully and to the same extent as if such sections had not been repealed; and all actions or proceedings, civil or criminal, commenced under or by virtue of the sections so repealed, and pending December thirty-first, nineteen hundred and one, may be prosecuted and defended to final effect in the same manner as they might under the sections of the said chapter three hundred and

seventy-eight of the Laws of eighteen hundred and ninety-seven then existing, unless it shall be otherwise specially provided by law. The provisions of this act, so far as they are substantially the same as those of laws existing on December thirty-first, nineteen hundred and one, shall be construed as a continuation of said laws, modified or amended according to the language employed in this act and not as new enactments, and shall be applicable to all matters contained in the several sections of the said chapter three hundred and seventy-eight of the laws of eighteen hundred and ninety-seven which are repealed, modified or amended by this act. References in laws not repealed to provisions of law incorporated into this act and repealed shall be construed as applying to the provisions so incorporated. Whenever by the provisions of this act a section which is repealed hereby and the number and title of which is contained in the First Schedule annexed to this act has been replaced by a section containing the same number, the repeal of the former section shall in nowise affect or impair the full force, effect and validity of the new section so substituted by the same number.

Section Three. The several sections of the said chapter three hundred and seventy-eight of the laws of eighteen hundred and ninety-seven, the numbers and titles of which are set forth in the Second Schedule annexed to this act entitled "*Second Schedule. Sections to remain in force until changed by the Board of Aldermen,*" are and each of them is hereby continued in full

force and effect until the board of aldermen as constituted by the foregoing provisions of this act shall pass ordinances regulating the matters provided for in the said several sections mentioned in the Second Schedule, all of which ordinances the said board of aldermen is hereby expressly empowered to pass. Upon the passing of any such ordinances regulating the matters provided for in any one of the said sections respectively, such section shall cease to have any force or effect, and the same is and shall be repealed.

Section Four. At the general election to be held in The City of New York in the year nineteen hundred and one there shall be elected, as provided in the Greater New York Charter as amended by this act, a mayor, a comptroller, a president of the board of aldermen, presidents of the several boroughs, and coroners and members of the board of aldermen, to the number herein provided, all of whom shall hold office for the terms and possess the powers and perform the duties specified in said Charter as amended by this act.

Section Five. This act shall take effect on the first day of January, in the year nineteen hundred and two. Provided, however, that section nineteen of the Greater New York Charter as amended by this act, entitled "Aldermanic Districts," shall take effect immediately; and it shall be the duty of the municipal assembly of The City of New York to divide the said city into aldermanic districts in the manner and within the time set forth in the said section. And provided, further, that title two of chapter thirteen of the Greater

New York Charter as amended by this act, entitled "Bellevue and Allied Hospitals in The City of New York" and section ten hundred and ninety-one of said charter as amended, entitled "Power to fix Salaries" and relating to salaries in the department of education, shall take effect immediately. And provided that where by the terms of the Charter as hereby amended it is provided that any act shall be done or forbidden prior to January first, nineteen hundred and two, then as to such act this act shall take effect from and after its passage and shall be in force immediately, anything in this chapter to the contrary notwithstanding. And provided, further, that the board of estimate and apportionment as now constituted and the municipal assembly of The City of New York shall during the year nineteen hundred and one make appropriations for the year nineteen hundred and two, so far as practicable, as though this act had fully taken effect at the time of preparing the annual budget for the year nineteen hundred and two.

THE FIRST SCHEDULE.

Sections of the Greater New York Charter Repealed.

SECTION.	TITLE.
11..	Expense of public schools for the year 1898.
19..	Council, how chosen; council districts.
20..	Term of office of members of the council.
21..	Mayor, an ex-officio member of the council.
24..	Board of aldermen, how constituted; term of office; vacancies, how filled; salary.
26..	Id.; how president elected and removed.
43..	Id.; to restrict height of buildings.
51..	Id.; licenses to second-hand dealers; penalty for violating ordinance.
52..	Id.; designating common jails.
53..	Id.; assignment of places for holding courts of general and special sessions and magistrates' or police courts.
54..	Id.; assignment of places for holding municipal courts.
102..	Department of buildings.
131..	Municipal statistical commission; how constituted.
132..	Meetings of commission; quorum.
133..	Place of meeting.
136..	Powers and duties of chief of bureau.
137..	Publication of statistics.
233..	Salaries of certain officers.
234..	List of persons and salaries not within a department.
247..	Comptroller's duties.
286..	Police force; chief of police; first appointment.
287..	Id.; other officers; first appointment.
295..	Police board; president and treasurer.
296..	Id.; duties of treasurer; bond; deputy treasurer.
304..	Id.; regulations of civil service commissioners.
322..	Id.; to provide lodgings for vagrants, etc.
325..	Applications for medical attendance; registered physicians.
326..	Compensation of registered physicians; certificate, etc.
327..	Physician to report to department of health.

SECTION.

TITLE.

328. . Nearest physician to be called; penalty for refusal to attend.
329. . List of registered physicians, to be posted.
330. . Hours of service of registered physicians.
358. . Elections; powers transferred to police board; board and offices abolished.
359. . General bureau of elections; control of; branches.
361. . Id.; appointment of chiefs of branches and assistants; salaries of assistants; detailing members of police force.
363. . Id.; employees continued in service.
364. . Id.; appropriation for expenses of.
365. . Id.; superintendent the chief executive officer; annual report.
366. . Id.; chiefs of branches; duties; location of offices.
367. . Id.; election expenses a charge against the city.
368. . Id.; existing records and property transferred to custody of.
370. . Id.; application of preceding section.
374. . Police matrons to be members of uniformed force.
410. . Board of public improvements; how constituted.
411. . Id; president; salary; powers.
412. . Id.; secretary; office; meetings; quorum, etc.
413. . Authorizing public improvements.
415. . Board of public improvements; power with respect to certain subjects.
416. . Id.; to prepare ordinances, etc.
417. . Public improvements; further procedure.
418. . Board of public improvements; power to prescribe rules, etc.
444. . Board may detail employees to assist president.
451. . Department branches; where located.
454. . Engineers' duties.
456. . Commissioners; powers to appoint and fix salaries.
457. . Id.; other duties.
458. . Id.; to organize bureaus.
523. . Commissioner of highways; appointment, term, salary.
524. . Id.; jurisdiction.
555. . Commissioner of sewers; appointment; salary.

SECTION.	TITLE.
556..	Id. ; jurisdiction and duties.
565..	Devolution of powers of the commissioner of street improvements in the twenty-third and twenty-fourth wards.
572..	Commissioner; appointment, term, salary.
573..	Id. ; jurisdiction.
574..	Consulting engineer; duties.
586..	Former boards to turn over maps, etc., to commissioner.
588..	Devolution of powers of former boards.
681..	Employment of inmates; articles manufactured; cultivation of lands.
721..	Deputies.
901..	Special provision for taxes of 1897-1898.
930..	Enforcing payment of personal taxes; fine may be imposed.
931..	Id. ; order to prosecute; when operates as assignment of bond.
993..	Subdivision of plots.
1060..	Special and general school funds; all moneys received by board of education.
1061..	School board, how constituted; vacancies; members to hold no other office except, etc.
1065..	Board of education and school boards to administer funds; apportionment thereof how made.
1066..	Id. ; may direct comptroller to withhold certain appropriations.
1077..	Id. ; advertising for contracts; security for performance.
1086..	Continuation of yearly contracts with teachers in territory consolidated.
1088..	Oath of appointees to school office.
1089..	School board; organization; secretary and employees; duties and bond of secretary.
1090..	Id. ; powers and duties.
1092..	Id. ; duties of secretary; chief clerk and secretary may administer oaths.
1093..	Id. ; powers to establish kindergartens, etc.
1094..	Id. ; power to establish evening schools, etc.; may establish, discontinue and consolidate schools in boroughs.

SECTION.

TITLE.

- 1095..Id.; power to establish special classes for persons who cannot use the English language readily.
- 1096..Id.; power to establish high schools, etc.
- 1097..Id.; power to create school inspection districts, discretionary; mayor appoints inspectors; terms, organizations, etc., of inspectors.
- 1098..Duties of inspectors of common schools.
- 1100..Id.; to provide for payment of salaries to principals and teachers and for disbursements.
- 1101..Id.; annual and other reports.
- 1102..Id.; power to appoint and remove borough superintendents and associate superintendents of schools; qualifications.
- 1104..School boards; changing grades of schools and classes; fixing standard of qualifications for principals and teachers.
- 1105..Id.; by-laws governing transfers of principals and teachers.
- 1106..Id.; transfer of unemployed principals or teachers.
- 1107..Id.; board of superintendents of the boroughs; how duties regulated.
- 1108..General duties of borough superintendents and associate superintendents.
- 1109..Borough board of superintendents; lists of principals, etc., to be kept by; where principals report.
- 1110..Id.; promotion of pupils; transfer of teachers by city superintendent of schools; preferment where schools are consolidated or discontinued.
- 1111..Id.; recommendations of and requisitions for text books and scholastic supplies.
- 1112..Miscellaneous provisions as to powers and duties of borough superintendent, borough board of superintendents and principals.
- 1113..Id.; qualifications for special branches.
- 1116..Borough superintendents; enforcing compulsory education law; nominating, assigning, suspending and discharging clerks.

SECTION.

TITLE.

1119. . School board of the borough of Brooklyn to control and administer the public school teachers' retirement fund created by chapter 656, laws of 1895; composition of fund; retirement and pensions of teachers.
1190. . Registrar of records.
1191. . Id.; and payment for night medical service.
1281. . Parties to suit brought after twelve days; costs against department.
1336. . Pension for twenty years' service.
1381. . Delivery of papers, etc.
1382. . Disposition of causes pending in district courts, etc.
1384. . Justices of district courts, etc., to act till February 1, 1898.
1392. . City magistrates in first division continued.
1393. . Office of police justice abolished.
1394. . City magistrates in second division.
1395. . Salary, etc.
1396. . Powers.
1397. . Board of magistrates.
1399. . Transfer of charges.
1400. . Clerks and employees.
1401. . Justices of special sessions appointed.
1403. . Qualifications.
1404. . Clerks.
1413. . Appeals from special sessions.
1414. . Delivery of papers, etc.
1416. . Pending actions.
1417. . Designation of magistrates.
1418. . Justices to act.
1458. . Stages and omnibuses; consent of property owners necessary before franchise granted.
1459. . Id.; application to mayor, etc., before route established.
1460. . Id.; stage route to be disposed of like other franchises.
1461. . Id.; not to be run except in conformity with preceding sections.
1493. . Killing or selling certain birds prohibited.
1536. . Retention of office by clerks in public employ in territory consolidated.

SECTION.

TITLE.

- 1537.. Books, papers, etc., where filed.
- 1588.. Proportion of the debt of the county of Queens assumed by The City of New York; power of board of supervisors of said county to bind that part thereof included in The City of New York restricted.
- 1589.. Proportion of the debt of the town of Hempstead to be assumed by the city; power of town board to bind that part thereof included in The City of New York restricted.
- 1592.. Board of supervisors of Queens county not to levy any tax upon that part of said county within the city.
- 1593.. Comptroller of state to determine amount of county charges of Queens county to be borne by that part of county within the city.
- 1594.. Comptroller of state to determine amount of state tax to be paid by the part of Queens county within the city; how levied and collected.
- 1596.. Comptroller of state to apportion Queens county school moneys.
- 1597.. School moneys for New York, Kings and Richmond counties to be transmitted to the city.

THE SECOND SCHEDULE.

Sections to Remain in Force Until Changed by the Board of Aldermen.

SECTION.	TITLE.
346.	Police board; licenses for public exhibitions.
347.	Id.; licenses to emigrant boarding-houses; bond.
348.	Id.; licenses to bookers of emigrant passengers.
349.	Id.; licenses to runners; bonds.
760.	Shavings; how to be stowed away.
762.	Lights, precautions against fire and use of aisles in places of amusement.
763.	Gunpowder and other explosives; sales thereof regulated.
764.	Fireworks and explosive compounds; manufacture and sale thereof.
765.	Petroleum and coal oils, etc.; sale thereof.
766.	Id.; continued.
768.	Fires and lights on vessels transporting petroleum.
769.	Storage of certain chemicals regulated.
770.	Id.; of certain vegetable products.
773.	Fines and penalties.
1207.	As to rags, hides and skins.
1208.	Unsound cotton.
1209.	Unsound articles, or deposited contrary to orders.
1211.	Penalties for disobedience.
1212.	Offensive trades.
1213.	Filling in lands.
1214.	Yards and cellars.
1223.	Separate receptacles for ashes and garbage.
1227.	Driving and slaughtering cattle, sheep, swine, pigs or calves regulated.
1454.	Municipal assembly to regulate driving, etc.
1455.	Law of the road.
1456.	Rubbish, nails, etc., not to be thrown in streets.
1457.	Processions and parades; regulations concerning.
1462.	Willfully breaking street lamps, etc.
1463.	Id.; detaining offender until name ascertained.
1464.	Id.; preceding sections no bar to suit by person injured.
1465.	Id.; informer relieved of penalty, etc.
1466.	Definition of "street."

SECTION.	TITLE.
1472.	Public exhibitions to be licensed.
1473.	Police department grants license; fee; penalty for neglect to obtain license.
1474.	Id.; commutation of license fee.
1475.	Id.; fees to be paid over to comptroller.
1476.	Revocation of license.
1477.	Penalty for violating provisions of this title.
1478.	Police, etc., to arrest offenders.
1479.	Corporation counsel may enjoin exhibitions without license.
1480.	Preceding sections not applicable to certain performances.
1481.	Exhibitions on Sunday prohibited.
1482.	Minors under fourteen unaccompanied by adult not to be admitted to theatres at night.
1483.	Prohibition of sale of spirituous liquors and employment of female waiters.
1484.	Violation of preceding section annuls license.
1485.	Violation of any provision of the two preceding sections a misdemeanor.
1486.	Police, etc., to enter places of amusement and arrest offenders.
1487.	Doors and exits to be conspicuously numbered; diagrams to be printed on programmes.

PROPOSED AMENDMENT

TO

Sec. 10 of Article VIII. of the Constitution.

Counties, cities and towns not to give or loan money or credit; limitation of indebtedness.

§ 10. No county, city, town or village shall hereafter give any money or property, or loan its money or credit to or in aid of any individual, association or corporation, or become directly or indirectly the owner of stock in, or bonds of, any association or corporation; nor shall any such county, city, town or village be allowed to incur any indebtedness except for county, city, town or village purposes. This section shall not prevent such county, city, town or village from making such provision for the aid or support of its poor as may be authorized by law. No county or city shall be allowed to become indebted for any purpose or in any manner to an amount which, including existing indebtedness, shall exceed ten per centum of the assessed valuation of the real estate of such county or city subject to taxation, as it appeared by the assessment-rolls of said county or city on the last assessment for state or county taxes prior to the incurring of such indebtedness; and all indebtedness in excess of such limitation,

except such as may now exist, shall be absolutely void, except as herein otherwise provided. No county or city whose present indebtedness exceeds ten per centum of the assessed valuation of its real estate subject to taxation, shall be allowed to become indebted in any further amount until such indebtedness shall be reduced within such limit. This section shall not be construed to prevent the issuing of certificates of indebtedness or revenue bonds issued in anticipation of the collection of taxes for amounts actually contained, or to be contained, in the taxes for the year when such certificates or revenue bonds are issued and payable out of such taxes. Nor shall this section be construed to prevent the issue of bonds to provide for the supply of water; but the term of the bonds issued to provide for the supply of water shall not exceed twenty years, and a sinking fund shall be created on the issuing of the said bonds for their redemption, by raising annually a sum which will produce an amount equal to the sum of the principal and interest of said bonds at their maturity. All certificates of indebtedness or revenue bonds issued in anticipation of the collection of taxes which are not retired within five years after their date of issue, and bonds issued to provide for the supply of water, and any debt hereafter incurred by any portion or part of a city, if there shall be any such debt shall be included in ascertaining the power of the city to become otherwise indebted; except that debts incurred by The City of New York after the first day of January, nineteen hundred and four, to provide for the supply of water shall not be so included. Whenever the

boundaries of any city are the same as those of a county, or when any city shall include within its boundaries more than one county, the power of any county wholly included within such city to become indebted shall cease, but the debt of the county heretofore existing shall not, for the purposes of this section, be reckoned as a part of the city debt. The amount hereafter to be raised by tax for county or city purposes, in any county containing a city of over one hundred thousand inhabitants, or any such city of this state, in addition to providing for the principal and interest of existing debt, shall not in the aggregate exceed in any one year two per centum of the assessed valuation of the real and personal estate of such county or city, to be ascertained as prescribed in this section in respect to county or city debt.

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