MANUAL

OF THE

HEALTH LAWS

OF THE

STATE OF OHIO.

COMPILED BY THE

STATE BOARD OF HEALTH

TO JANUARY 1st, 1892.

The Westbote Printing Co., Columbus, O.

MANUAL

OF THE

HEALTH LAWS OF OHIO,

FOR THE USE OF

BOARDS OF HEALTH,

CONTAINING THE

STATUTES RELATING TO THE PUBLIC HEALTH, AND THE DECISIONS OF THE SUPREME COURT IN REFERENCE TO THE SAME SUBJECT,

In Effect January 1, 1892.

COMPILED BY THE
STATE BOARD OF HEALTH

COLUMBUS, O.:
THE WESTBOTE COMPANY, PRINTERS.
1891.

INTRODUCTION.

This manual contains all the statutes relating to the public health in force January 1, 1892, and has been prepared specially for the use of health officers and boards of health.

The syllabus adopted in the Revised Statutes of 1890 has been followed, and is placed at the heads of sections, printed in bold-face type, so that the nature of each section may be seen at a glance. The sectional numbering adopted in the Revised Statutes for 1890 (Smith and Benedict) has also been followed where possible. Following each section is, first, its number in the Revised Statutes, where given, and then, separated by a semi-colon, the number of the volume and page of the Ohio Laws where it may be found. The date of the enactment of the laws of 1889–90, 1890–91, not contained in the Revised Statutes, is first given, followed, after a semi-colon, by the number of the volume and page of the Ohio Laws.

Sections are numbered consecutively from one to two hundred and ninety-six, and the *index* refers to the sectional numbering prepared for this volume.

Where a sectional number, given in the text of sections does not refer to a sectional number of the Revised Statutes, but to the sectional number of an act, the proper number given in the Revised Statutes, where possible, is inserted immediately following in brackets.

Great care has been taken in the completion, and the acts given are believed to be absolutely correct.

C. O. Probst, M. D,
Secretary State Board of Health

MANUAL

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HEALTH LAWS OF OHIO.

In Force January 1, 1892.

DIVISION I.

Relating to Boards of Health.

STATE BOARD OF HEALTH.

SEC. 1. **[Appointment of state board of health; terms of members; vacancies.]** The governor, with the advice and consent of the senate, shall appoint seven persons, who (with the attorney-general, who shall be ex-officio a member of said board) shall constitute the state board of health; provided, that the terms of office of the seven first appointed shall be so arranged that the term of one shall expire on the 13th day of December of each year, and the vacancies so created, as well as all vacancies occurring otherwise, shall be filled by the governor, with the advice and consent of the senate; and provided, also, that appointments made when the senate is not in session, may be confirmed at its next ensuing session. (8035-294; 83 v. 77.)

SEC. 2. **[General duties of board.]** The state board of health shall have the supervision of the interests of the health and life of the citizens of the state, and may make such quarantine and sanitary rules and regulations as they may deem necessary therefor; they shall make careful inquiry in respect to the causes of disease, and especially the invasion or spread of any infectious or contagious [,] epidemic or epidemic [endemic] disease, and investigate the sources of mortality, and the effects of localities, employments, conditions, ingesta, habits and surroundings on the health of the people, and shall investigate the causes of diseases occurring among the stock and domestic animals of the state, the methods of remedying the same by quarantine or otherwise, and shall gather information in respect to such matters and kindred subjects for dissemination among the people. They shall advise officers of the government, or other state boards in regard to the location, drainage, water supply, disposal of excreta, heating and ventilating of public buildings. They shall collect and preserve such information relating to forms of disease and death as may be useful in the discharge of the duties of said board. It shall be the duty of all local boards of health, health authorities and officials, officers of state institutions, police officers, sheriffs, constables, and all other officers and employes of the state, or any county, city or town thereof, to enforce such quarantine and sanitary rules and regulations as may be adopted by the state board of health, and in the event of failure or refusal on the part of any member of said boards or other officials, or persons in this section

mentioned to so act, he or they shall be subject to a fine of not less than fifty dollars, upon first conviction, and upon a conviction of second offense of not less than one hundred dollars. (8035-295; 86 v. 223.)

SEC. 3. **[Vital statistics.]** The board of health shall have supervision of the state system of registration of births and deaths as hereinafter provided; they shall make up such forms and recommend such legislation as shall be deemed necessary for the thorough registration of vital and mortuary statistics throughout the state. The secretary of the board shall be the superintendent of such registration. The clerical duties and the safekeeping of the bureau of vital statistics thus created shall be provided by the secretary of state. (8035-296; 83 v. 78.)

SEC. 4. **[Reports to board of contagious diseases.]** It shall be the duty of boards of health, health authorities or officials, and of physicians in localities where there are no health authorities or officials, to report to the state board of health, promptly upon discovery thereof, the existence of any one of the following diseases which may come under their observation, to-wit: Asiatic cholera, yellow fever, small pox, scarlet fever, diphtheria .typhus and typhoid fever, and of such other contagious or infectious diseases as the state board may from time to time specify. (8035-297; 83 v. 78.)

SEC. 5. **[Penalties; how applied.]** All amounts recovered under the penalties herein provided, shall be appropriated to a special fund for the carrying out of the objects of this law. (8035-298; 83 v. 78.)

SEC. 6. **[Meetings of board; conduct of business.]** The first meeting of the board shall be within thirty days after their appointment, and thereafter in January and June of each year, and at such other times as the board shall deem expedient. There shall not be more than three called sessions of the board in [any] one year, and no session of the board shall continue longer than three days. The meeting in January of each year shall be in Columbus. A majority shall constitute a quorum. They shall choose one of their number to be president, and they may adopt rules and by-laws for their government, subject to the provisions of this act. (8035-299; 83 v. 78.)

SEC. 7. **[Secretary of board; his salary; compensation of members.]** They shall elect a secretary, who shall perform the duties prescribed by the board and by this act, and who shall, upon cause, be removed by a majority vote; he shall receive a salary, not to exceed sixteen hundred dollars ($1,600) per annum, which shall be fixed by the board; he shall also receive his traveling and other expenses incurred in the performance of his official duties. The other members of the board shall receive five dollars per day, and their traveling and other expenses while employed on business of the board. The president of the board shall, quarterly, certify the amount due the members, and on presentation of his certificate the auditor of state shall draw his warrant on the treasurer for the amount. (8035-300; 83 v. 78.)

SEC. 8. **[Annual report of board.]** It shall be the duty of the board of health to make an annual report, through their secretary or otherwise, in writing, to the governor of the state, on or before the first day of November of each year, and such report shall include so much of the proceedings of the board, and such information concerning vital statistics, such knowledge respecting diseases, and such instructions on the subject

of hygiene as may be thought useful by the board for dissemination among the people, with such suggestions as to legislative action as they may deem necessary. (8035-301; 83 v. 78.)

SEC. 9. **[Board of health; how established and constituted in certain municipalities.]** The council of each city and village having a population of five hundred or more shall establish a board of health; such board shall be composed of the mayor, who shall be president by virtue of his office, and six members to be appointed by the council, not more than two of whom shall be medical practitioners, who shall serve without compensation, and a majority of whom shall constitute a quorum. Provided that none of the provisions of this section shall apply to cities of the first grade of the first class or to cities of the first grade of the second class. (1890, April 25: 2113; 87 v. 296.)

The council of a village passed an ordinance establishing a board of health, and regularly appointed members of the board, who qualified and acted as such. But the ordinance establishing the board was not read three times, nor were the yeas and nays suspending the rules recorded: Held, that they were such board *de facto*, and their acts within the sphere of their office are valid and binding. Smith *v.* Lynch, 290 § 261.

SEC. 10. **[Term of office of members.]** The term of office of the members of the board shall be three years from the date of appointment, except that those first appointed shall be classified as follows: Two to serve for three years, two for two years, and two for one year, and thereafter two shall be appointed annually. (2114; 66 v. 201.)

SEC. 11. **[Board shall appoint health officer; may appoint clerk, etc.]** The board shall appoint a health officer, who shall furnish his name and address and such other information as may be required by the state board of health; and may appoint a clerk, as many ward or district physicians as it may deem necessary for the care of the sick poor, and such other persons as may be in need, and define their duties and fix their salaries; and all such appointees shall serve during the pleasure of the board. (2115; 85 v. 59-60.)

SEC. 12. **[Suppression of nuisances by boards of health; registration of marriages, births and deaths, etc.]** The board of health may abate and remove all nuisances in the corporation, and assess the costs and expenses of the same upon the property wherein such nuisance is situated, which assessment when duly certified by the president of the board to the county auditor, shall become a lien, to be collected as other taxes in favor of the corporation; compel the owners, agents, assignees, occupants, or tenants of the lot, property, house or building upon or in which any nuisance may be, to abate and remove the same; regulate the construction, arrangement, emptying, and cleaning of all water-closets and privy-vaults; create a complete and accurate system of registration of births, marriages, deaths, and interments occurring in such corporation, for the purposes of legal and genealogical investigations, and to furnish facts for statistical, scientific, and particularly for sanitary inquiries; and when complaint is made, or a reasonable belief exists, that an infectious or contagious disease prevails in any locality or house, the board may visit such locality or house, make all necessary investigations by inspection, and on discovering that such infectious or contagious diseases exist, send the persons so diseased to the pest-house or hospital. (2116; 71 v. 159.)

SEC. 13. **[Registry of births, marriages and deaths in Cincinnati.]** In cities of the first grade of the first class, which, for this purpose alone,

shall be co-extensive with the county, it shall be the duty of physicians and professional midwives to keep a registry of the several births at which they have assisted professionally, which registry shall contain the time of such birth, sex, and color of the child, and the names and residence of the parents. Clergymen and other persons authorized to solemnize marriages, shall keep a registry of all marriages solemnized by them. Physicians who have attended deceased persons in their last illness, and undertakers and sextons who have buried deceased persons, shall keep a registry of the name and age of such persons, and their residence at the time of their death; and all such physicians, professional midwives, clergymen, and all persons authorized to solemnize marriages, undertakers and sextons, shall report to the board of health all births, marriages and deaths occurring within the limits of such city, as registered by them, which reports shall be made as often as the board of health may require. (2117; 82 v. 177.)

SEC. 14. **[Duty of physicians, house-owners, etc., to give notice of prevalence of infectious diseases.]** The owner, or agent of the owner, of a house in which a person resides who has the small-pox, or any other disease dangerous to the public health, and the physician called to attend the person so affected, shall, within twenty-four hours after becoming cognizant of the fact, give notice thereof to the board of health; and when a person, so affected, is removed to a pest-house, or hospital, the board of health is empowered to use all necessary means to restrain him of his liberty, until the danger of infection, or contagion, from such disease, ceases. (2118; 71 v. 159.)

SEC. 15. **[Permit to convey corpse.]** No person shall convey a corpse to or from any city, without a permit from the board of health. (2119; 71 v. 159.)

SEC. 16. **[Health provisions; penalty for non-compliance.]** Any person other than an officer, who fails to faithfully comply with any of the provisions of the four preceding sections, shall pay a fine not exceeding fifty dollars. (2120; 83 v. 154.)

SEC. 17. **[Punishment of infected person for escaping, etc.]** A person removed to a pest-house, or hospital, who willfully leaves or escapes therefrom, before the physician thereof issues a certificate of restored health, shall be fined not less than five, nor more than fifty dollars, or imprisoned not less than one, nor more than ten days. (2121; 66 v. 201.)

SEC. 18. **[Powers of boards of health.]** The council may grant power to the board of health to make such orders and regulations as it may deem necessary for the public health and for the prevention of disease, and such orders and regulations shall have all the force and effect of ordinances of the corporation, and the council of cities of the second grade of the first class, and the council of cities of the third and fourth grade, second class, may grant power to the board of health to employ such number of scavengers for the removal of swill, garbage and offal from the houses, buildings, yards, and lots within the city as it may deem necessary. (1891. March 3: 2122; 88 v. 71.)

SEC. 19. **[Duty as to Brothels, etc.]** The board of health, in cities of the first class, and, when empowered by resolution of the council, in cities of the second class, are authorized and directed to enter brothels, and houses of assignation, and make enumerations, as often as they may deem necessary, of the name, age and color of the inmates therein, and

make a record thereof, in a book to be kept in the office of the board of health, open to the inspection of the members of the board, the police, and others. (2123; 66 v. 201.)

SEC. 20. [**Disposition of minor prostitute.**] When a female, under the age of eighteen years, or believed to be under that age, is found in such brothel, or house of assignation, it shall be the duty of the board of health to return her to her home, if she has a home; and if such female has no home, then she shall be consigned to the house of refuge and correction of the corporation, or such benevolent institution, established for the reformation of abandoned females, as the board of health may elect. (2124; 66 v. 202.)

SEC. 21. [**When females shall be treated as a vagrant.**] No such female shall be consigned to a house of refuge and correction, or benevolent institution, against her will; but in case she declines the care and protection tendered her, it shall be the duty of the board to report her to the mayor, or police court, forthwith, to be tried as a vagrant. (2125; 66 v. 202.)

SEC. 22. [**Treatment of diseased female; expense thereof.**] When a female is found in a house of ill-fame, or assignation, affected with contagious or infectious disease, and is removed to, or if such person apply for admission to, any hospital, or pest-house, for treatment, the costs of such removal, and the expense of boarding and washing, while in such hospital, or pest-house, shall be paid by the proprietor of the house of ill-fame, or assignation, from which such patient is removed, or in which she was last an inmate; such payment shall be made before the patient is discharged from such hospital, or pest-house; and the expense of boarding, washing, and medical attendance, shall be a lien upon the house and premises in which such female shall have been so found, which lien may be enforced as other liens for the security of money. (2126; 66 v. 202.)

SEC. 23. [**Suit for recovery of such expense.**] If the proprietor of such house of ill-fame, or assignation, fails or refuses to pay such expense, legal proceedings shall be immediately instituted against him, and such patient shall be held as a witness in the case. (2127; 66 v. 202.)

SEC. 24. [**Nuisances to be abated.**] When any building, erection, excavation, premises, business, pursuit, matter, or thing, or the sewerage, drainage, or ventilation thereof, is, in the opinion of the board of health, in a condition dangerous to life or health, the board shall declare the same, to the extent it may specify, a public nuisance, or dangerous to life and health; and the board may order the same to be removed, abated, suspended, altered, or otherwise improved or purified, as in the order shall be specified, and shall cause the order, before its execution, to be served on the agent, owner, occupant, or tenant, or such of them as are in the corporation, and can be fouud. (2128; 66 v. 202.)

SEC. 25. [**Temporary suspension of order or abatement.**] If a party so served, before the execution of the order is commenced, apply to the board to have the order or its execution stayed or modified, it shall be the duty of the board to temporarily suspend or modify it, and to give the party, as the case, in the opinion of the board, may require, a reasonable and fair opportunity to be heard before the board, and to present proofs and facts against the declaration and the execution of the order, or in favor of its modification. (2129; 66 v. 202.)

SEC. 26. [**Modification or re-affirmation of order.**] The board shall enter upon its minutes such facts and proofs as it may receive, and

its proceedings on the hearing, and thereafter may rescind, modify, or reaffirm its former declaration and order, and require execution of the original or of a new or modified order, in such form as it may finally determine. (2130; 66 v. 203.)

SEC. 27. **[Appointment of sanitary police by board of health.]** The board of health shall have power to appoint as many persons for sanitary duty as in its opinion the public health and sanitary condition of the corporation may require and such persons shall have general police powers, be known as the sanitary police, perform such duties for the promotion of the public health, and such other duties as the board of health may direct, and shall serve during the pleasure of the board. (2131; 71 v. 160.)

SEC. 28. **[Appointment of sanitary police. Powers, duties and salaries.]** In all cities of the second grade of the first class, the board of health shall have power to appoint as many persons for sanitary duty as in its opinion the public health and sanitary condition of the corporation may require, not exceeding one for each ten thousand inhabitants, as shown by the last police census in such cities; but the board shall have the power in cases of emergency, to appoint as many special sanitary police as it may think proper, and such appointees as special police shall serve during the pleasure of the board: and all such persons shall have general police powers, be known as sanitary police, shall be electors of such cities, and perform such duties as the board of health may direct; and for such services shall receive a salary, fixed by the board, of not less than seven hundred and eighty dollars per annum. Provided, that the sanitary police now in office shall not be removed except in the manner provided for by sec. 2132*a*. (2131*a*; 85 v. 60.)

SEC. 29. **[When such police shall be dismissed.]** When, in the opinion of the board of health, the services of a member of the sanitary police is no longer required, he shall, on recommendation of the board of health, be returned to duty as a regular policeman, or be dismissed, as the mayor, or, in cities of the first and second grades of the first class, and cities of the first grade of the second class, the police commissioners may direct. (2132; 66 v. 203.)

SEC. 30. **[Removals and suspensions generally.]** In all cities of the second grade of the first class, the board of health may, for cause to be assigned, on a public hearing, on due notice, and by the vote of a majority of all members elected, according to rules promulgated by it, remove or suspend from office, or for any definite time deprive from pay, any member of such sanitary police force or any employe of such board; and no employe of such board of health shall be dismissed for other reasons; it may make rules and regulations for the government and discipline of the employes, and cause the same to be published. (2132*a*; 85 v. 60.)

SEC. 31. **[Milk, meat, butter, and cheese inspectors.]** The board of health may appoint such number of inspectors of milk and meat, and such number of inspectors of butter and cheese, and substances purporting to be butter or cheese, or having the semblance of butter or cheese, and as many market-masters and such other persons as may be necessary to carry out the provisions of this chapter, define their duties and fix their compensation; and such inspectors of milk shall keep, for public inspection, a record of the names and places of business of all persons engaged in the sale of milk. (2133; 78 v. 188.)

SEC. 32. **[Places where milk, butter, cheese, etc., are made subject to inspection. Analysis of milk, butter.]** All dairies, including the cows, cow-stables, milk-houses, and milk-vessels, the owners of which offer for sale within the limits of the corporation milk or butter manufactured by such owners, shall be subject to inspection by the inspectors, and also any manufactory of butter or cheese, or of substances having the semblance of butter or cheese, or places where such substances or either of them are sold, shall be subject to inspection by the inspectors; that officer may enter any place where milk is sold or kept for sale, and all carriages used for the conveyance of milk within the corporate limits; and also any manufactory or place where butter or cheese, or substances having the semblance of butter or cheese are manufactured, or any place where such substances are sold or kept for sale within the corporate limits; and whenever he has any reason to believe milk found therein is impure or adulterated, or any butter or cheese, or substances having the semblance of butter or cheese found therein contain any impure, unwholesome or deleterious substance, or is being sold or offered for sale under any false or deceptive name or designation, that any butter or cheese not made from pure cream or milk, or any substance having the semblance of butter or cheese, is being sold or offered for sale, without being branded or stamped, as required by section 7090, he shall take specimens thereof and subject them to satisfactory tests; or, if the board of health so direct, to chemical analysis, the result of which he shall record and preserve as evidence, and a certificate of such result, sworn to by the analyst, shall be admissible in evidence in all prosecutions under this chapter, or any law of this state. (2134; 78 v. 188.)

SEC. 33. **[Powers of board of health; gratuitous vaccination, etc.]** The board of health may take measures and supply agents, and afford inducements and facilities for gratuitous vaccination and disinfection, may afford medical relief to and among the poor of the corporation as in its opinion the protection of the public health may require, and during the prevalence of any epidemic may provide temporary hospitals for such purposes; and the said board is hereby required to inspect semi-annually, and oftener if in the judgment of the board, it shall be deemed necessary, the sanitary condition of all schools and school buildings within the limits of the corporation. (2135; 80 v. 60.)

SEC. 34. **[Sanitary reports, its contents, etc.]** It shall be the duty of the board of health, on or before the first Monday of March in each year, to make a report, in writing, to the council of the corporation, upon the sanitary condition and prospects of such city or village, which report shall contain the statistics of deaths, the action of the board and its officers and agents, and the names thereof for the past year; and it may contain other useful information, and the board shall suggest therein any further legislative action deemed proper for the better protection of life and health. (2136; 66 v. 203.)

SEC. 35. **[Penalty for violating order of board of health.]** Whoever violates any provision of this chapter, or any order of the board of health made in pursuance thereof, or obstructs or interferes with the execution of any such order, or willfully and illegally omits to obey any such order, shall be fined in any sum not exceeding one hundred dollars, or imprisoned for any time not exceeding ninety days, or both; but no person shall be imprisoned under this section for the first offense. (2137; 66 v. 203.)

SEC. 36. [**Violation by a corporation.**] If such violation, obstruction, interference, or omission be by a corporation, it shall forfeit and pay to the proper city or village, any sum not exceeding one hundred dollars, at the discretion of the court, to be collected in a civil action brought in the name of such city or village; and any officer of such corporation consenting to such violation, shall be subject to imprisonment as above provided. (2138; 66 v. 204.)

SEC. 37. [**Prosecutions, how instituted.**] Prosecutions under this chapter, and the civil action provided for in the preceding section, shall be instituted before any tribunal within the municipal corporation having jurisdiction thereof. (2139; 66 v. 204.)

SEC. 38. [**Provision for expenses of board of health.**] When expenses are incurred by the board of health, under the provisions of this chapter, it shall be the duty of the council, upon application and certificate from the board of health, to pass the necessary appropriation ordinances to pay the expenses so incurred and certified; and the council is hereby empowered to levy, subject to the restrictions contained in the ninth division of this title, and set apart, the necessary sum to carry into effect the provisions of this chapter. (2140; 71 v. 160.)

SEC. 39. [**Board of police commissioners in certain cities to act as board of health.**] In cities of the third grade of the first class and in cities of the first grade of the second class, there shall be no board of health, but the board of police commissioners in such cities shall exercise all the powers and perform all the duties of the boards of health and mayors as provided in this chapter. (1890, March 26; 2141; 87 v. 118.)

SEC. 40. [**Health officers of cities or villages may establish quarantine stations.**] Any city or village having a board of health, or "the standing committee on health of any city or village council, who may do and perform all the duties of a board of health, as prescribed in this chapter," or a health officer may establish a quarantine ground or grounds, within or without its own limits; but if such place be without its limits, and within the limits of any other municipal corporation, the consent of the corporation within the limits of which it is proposed to establish such quarantine shall be first obtained. (2142; 79 v. 53.)

SEC. 41. [**Railroads, vessels, etc., may be subjected to quarantine.**] The board of health or the health officer may, in times of epidemics, or threatened epidemics, establish a quarantine on vessels, railroads, or any class of vehicles used for the purpose of transporting passengers, baggage, or freight, may make such rules or regulations as may be deemed wise and necessary for the protection of the health of the people of the community or state. (2143; 76 v. 69.)

SEC. 42. [**Effect of declaring quarantine.**] Whenever quarantine is declared, all railroad and steamboat corporations, and the owners, consignees, or assignees of any railroad, steamboat, stage, or other vehicle used for the transportation of passengers, baggage, or freight, shall submit to any rules or regulations imposed by such board of health or health officer; they shall submit to any examination required by the health authorities respecting any circumstance or event touching the health of the crew and passengers, and the sanitary condition of the baggage and freight; and any owner, consignee, or assignee, or other person interested as aforesaid, who makes any unfounded declaration respecting the points under examination, shall, upon conviction thereof before any court or justice of the peace, be fined not more than one hundred dollars or imprisoned not

more than six months, or both; and all fines thus collected, less costs, shall be turned over to the sanitary fund of the city or village where such quarantine may be established. (2144; 76 v. 69.)

SEC. 43. [To whom and what quarantine rules shall apply.] All rules and regulations passed by the board of health or health officer, shall apply to all persons, goods, or effects arriving by railroad, steamboat, or other vehicle of transportation, after quarantine is declared. (2145; 76 v. 69.)

SEC. 44. [Needful buildings may be erected.] The board of health or health officer shall be authorized to erect any temporary wooden buildings or field hospitals deemed necessary for the isolation and protection of persons or freight supposed to be infected; but such place shall be constantly guarded by a competent force of at least three sanitary officers. (2146; 76 v. 69.)

SEC. 45. [Sanitary inspectors may be appointed.] The board of health or health officer may appoint, during the time of quarantine, a sufficient number of sanitary inspectors, the salaries of whom shall be fixed by the council. (2147; 76 v. 69.)

SEC. 46. Power of council to borrow money and levy tax therefor in time of epidemic or threatened epidemic.] In case of any epidemic or threatened epicemic, the council shall have power to borrow until such times as the next levy and collections thereof be made, and at a rate of interest not to exceed six per cent., any sum of money that the board of health and council may deem necessary to defray the expenses of the aforesaid quarantine. (2148; 76 v. 69.)

SEC. 47. [Right of visitation.] The general assembly of Ohio, by a committee, the governor of the state, the council of the corporation by a committee, the mayor or police judge of the corporation, the board of health of the corporation, the judge of any court of this state, and the grand jury of the county, may, at any time, visit and inspect any of the benevolent or correctional institutions established by any municipal corporation, and examine the books and accounts of the same. (1544; 66 v. 272.)

DIVISION II.

Relating to Nuisances.

SEC. 48. **[Powers of municipal corporations to fill lots, remove obstructions, etc.]** All municipal corporations shall have power to cause any lot of land within their limits on which water at any time becomes stagnant, to be filled up or drained, and to cause all putrid substances to be removed from any lot, and to cause the removal of all obstructions from all culverts or covered drains on private property, laid in any natural water-course, creek, brook or branch where the same obstructs the water naturally flowing therein, causing it to flow back or become stagnant, in a way prejudicial to the health, comfort or convenience of any of the citizens of the neighborhood; and if such culverts or drains be of insufficient capacity, to cause the same to be made of such capacity as reasonably to accommodate the flow of such water at all times therein; and the council may direct, by resolution, the owner to fill up or drain such lot, remove such putrid substance, or remove such obstructions, and if necessary enlarge such culverts or covered drains to meet the requirements thereof. (2149; 81 v. 37.)

SEC. 49. **[Duty of owner to comply with direction.]** It shall be the duty of such owner, or his agent or attorney, after service of a copy of such resolution, or after a publication of the same in some newspaper of general circulation in such corporation for two consecutive weeks, to comply with the directions of the resolution within the time therein specified. (2150; 66 v. 225.)

SEC. 50. **[To be done at owner's expense, in case of refusal or neglect, etc.]** In case of failure or refusal to comply with the resolution, the work required thereby may be done at the expense of the corporation, and the amount of money so expended shall be recovered from the owner before a justice of the peace, or other court of competent jurisdiction; and such expense shall, from the time of the adoption of the resolution be a lien on such lot, which may be enforced by suit in the court of common pleas of the proper county; and like proceedings may be had as directed in relation to the improvement of streets. (2151; 66 v. 225.)

SEC. 51. **[Duty of health officers to enforce provisions of this chapter.]** It shall be the duty of the officers connected with the health department of every such municipal corporation, to see that the provisions of this chapter are strictly and promptly enforced. (2152.)

SEC. 52. **[Offensive and noisy factories not to be erected or carried on within certain distance of any benevolent institution.]** It is unlawful for a person or an incorporated company to erect or carry on, within one hundred and twenty rods of Longview asylum, or any state benevolent institution, any rolling mill, blast furnace, nail factory, copper smelting works, boiler factory, petroleum oil refinery, slaughter house, tallow chand-

lery, or glue, soap, or starch factory, or any other works or business productive of unwholesome or noxious odors or gases, or loud noises, which may annoy or endanger the health, or interfere with the proper treatment of the inmates of such institution; but it is lawful for a person to file his petition in the court of common pleas in any county wherein such an institution is located, setting forth his desire to erect or carry on at less distance than that prohibited herein, naming the precise point, any of the establishments hereinbefore named, or any other works which might have a tendency to generate unwholesome or noxious odors, or in any way annoy or endanger the health or prevent the recovery of inmates of said institution, and the reasons and circumstances, in his opinion, why the erection or carrying on thereof would not so annoy or endanger the health or convenience, or endanger the recovery of the inmates of said institution; and shall give notice in some newspaper of general circulation in such county, of the pendency and prayer of such petition, for at least six consecutive weeks previous to the term of the court next to be held therein, and shall also serve a written notice upon the superintendent of the institution, at least thirty days before the day set for the hearing of the petition; thereupon, if, upon the hearing of the petition, it appears that due notice has been given, as herein required, and the court is of opinion that there exists no good reason why such establishment may not be so erected or carried on, and that by the erection or carrying on thereof at the point named, such institution will sustain no detriment, the court may issue an order granting the prayer of the petitioner; and thereafter he may proceed to locate such establishment or carry on such business at the point named in his petition, the same as if this section had not been passed. (624; 63 v. 96.)

SEC. 53. **[Corporations may be prosecuted for nuisance; court to order nuisance abated.]** Corporations may be prosecuted by indictment for violation of any of the provisions of sections 6921, 6922, 6923, 6924, 6925 and 6926 and in every case of conviction under said sections the court shall adjudge that the nuisance described in the indictment be abated or removed, and may issue an order to the sheriff to execute such judgment at the cost and expense of the defendant. (6919; 54 v. 130.)

SEC. 54. **[When certain nuisances deemed to have been committed; continuance of, a separate offense.]** An offense charged under either of said sections shall be construed and held to have been committed in any county whose inhabitants are or have been injured or aggrieved thereby; and the continuance of any nuisance for five days after prosecution commenced therefor shall be deemed an additional offense. (6920; 63 v. 102.)

SEC. 55. **[Inspector of nuisances; when and by whom appointed; powers, duties, etc.]** The county commissioners of any county, whenever there is a violation of any of the provisions of either of said sections named in section 6919, are authorized to employ and reasonably compensate, at such times as they may deem proper, one inspector of nuisances who shall be vested with police powers, and shall be authorized to examine all cases of violation of the provisions of said sections, and for such purpose and for the purpose of obtaining evidence, he shall be fully authorized and empowered to enter upon the premises of any person in any county, and it shall be the duty of such inspector to make or cause to be made a complaint and to institute prosecution against any person or corporation violating the provision of either of said sections, and such in-

spector shall not be required in the prosecution of any such proceeding to give security for costs. (1890, April 28: 6920*a*; 87 v. 350.)

SEC. 56. **[Prosecuting attorney made legal advisor of inspector; compensation.]** The prosecuting attorney shall be the legal advisor of such inspector and the attorney in all such prosecutions, and in lieu of any percentage on fines and costs, he shall be allowed a compensation for such services by the county commissioners, to be paid out of the county treasury. (1890, April 28: 6920*b*; 87 v. 351.)

SEC. 57. **[Judgment for fine and costs: how collected.]** A judgment for fine and costs rendered against any person or corporation for the violation of the provisions of either of said sections mentioned in said section 6919, when the defendant has no property, or when the defendant has not a sufficient amount of property within the county upon which to levy to satisfy such judgment and costs, may be enforced and collected in the same manner as judgments are collected in civil cases, upon execution duly issued from any such court to any sheriff of any county of the State. (1890, April 28: 6920*c*; 87 v. 351.)

SEC. 58. **[Summons and indictment against corporations.]** When an indictment is presented against a corporation, a summons commanding the sheriff to notify the accused thereof, and returnable on the seventh day after its date, shall issue on the precipe of the prosecuting attorney; such summons, together with a copy of the indictment, shall be served and returned in the manner provided for service of summons upon such corporation in civil actions; and if the service can not be made in the county where the prosecution began, then the sheriff may make service in any county of the state upon either its president, secretary, superintendent, clerk, cashier, treasurer, managing agent, or other chief officer, or by a copy left at any general or branch office, or usual place of doing business of such corporation, with the person having charge thereof; the corporation, on or before the return day of a summons duly served, may appear by one of its officers, or by counsel, and answer to indictment by motion, demurrer or plea, and upon its failure to make such appearance and answer, the clerk shall enter a plea of "not guilty;" and upon such appearance being made, or plea entered, the corporation shall be deemed thenceforth continuously present in court until the case is finally disposed of. (1890, April 28: 7231; 87 v. 351.)

SEC. 59. **[Nuisances.]** Whoever erects, continues, uses, or maintains, any building, structure, or place for the exercise of any trade, employment, or business, or for the keeping or feeding of any animal, which, by occasioning noxious exhalations, or noisome or offensive smells, becomes injurious to the health, comfort, or property of individuals, or the public, or causes or suffers any offal, filth, or noisome substance to be collected, or to remain, in any place, to the damage or prejudice of others, or the public, or obstructs or impedes, without legal authority, the passage of any navigable river, harbor, or collection of water, or corrupts, or renders unwholesome or impure, any water-course, stream, or water, or unlawfully diverts any such water-course from its natural course or state, to the injury or prejudice of others, or obstructs or incumbers, by fences, buildings, structures, or otherwise, any public ground or highway, or any street or alley of any municipal corporation, shall be fined not more than five hundred dollars. (6921; 72 v. 112.)

SEC. 60. **[Creating artificial ponds and stagnant waters.]** Whoever builds, erects, continues, or keeps up, any dam or other obstruction, in

any river or stream of water, and thereby raises an artificial pond, or produces stagnant water, which is manifestly injurious to the public health and safety, shall be fined not more than five hundred dollars. (6922; 29 v. 144.)

SEC. 61. **[Unlawful deposit of dead animals, offal, etc., into or upon land or water.]** Whosoever puts the carcass of any dead animal, or the offal from any slaughter-house, or butcher's establishment, packing-house, or fish-house, or any spoiled meat, or spoiled fish, or any putrid substance, or the contents of any privy vaults, upon or into any lake, river, bay, creek, pond, canal, road, street, alley, lot, field, meadow, public ground, market space or common, and whoever being the owner or occupant of any such place, knowingly permits any such thing to remain therein, to the annoyance of any of the citizens of this state, neglects or refuses to remove or abate the nuisance occasioned thereby, within twenty-four hours after knowledge of the existence of such nuisance upon any of the above described premises, owned or occupied by him, or after notice thereof in writing, from any supervisor, constable, trustee or health officer of any municipal corporation or township in which such nuisance exists, or from a county commissioner of such county, shall be fined not more than fifty dollars nor less than ten dollars, and pay the cost of prosecution, and in default of the payment of said fine and costs, be imprisoned not more than thirty days, but the provisions hereinbefore made shall not prohibit the depositing of the contents of privy vaults and catch basins into trenches or pits not less than three (3) feet deep, excavated in any lot, field or meadow, the owner thereof consenting outside the limits of any municipal corporation, and not less than thirty rods distant from any dwelling, well or spring of water, lake, bay or pond, canal, run, creek, brook or stream of water, public road or highway; provided, said contents deposited in said trenches or pits are immediately thereafter covered with dry earth to the depth of at least twelve inches; nor shall said provisions prohibit the depositing of said contents into furrows situate and distinct, as specified for said trenches or pits; provided, the same are immediately thereafter wholly covered with dry earth by plowing or otherwise; and provided, also, that the owner or occupant of the land in which said furrows are plowed consents, and is a party thereto; provided, also, that the board of health of any municipal corporation may allow said contents to be deposited within the corporate limits into trenches or pits or furrows, situate, distant and to be covered as aforesaid. (1890, April, 20: 6923; 87 v. 349.)

SEC. 62. **[Certain business and buildings are nuisances when near state benevolent institutions.]** Whoever carries on the business of slaughtering, or tallow chandlery, or manufacturing glue, soap, starch, or other article, the manufacture of which is productive of unwholesome or noxious odors, in any building or place within one mile of Longview asylum, or any of the state benevolent institutions, or erects, within one hundred and twenty rods of any state benevolent institution, any rolling-mill, blast furnace, nail factory, copper smelting works, boiler factory, petroleum oil refinery, or any other works which may generate unwholesome or noxious odors, or make loud noises, or which may annoy, or endanger the health or prevent the recovery of the inmates of any such institution, shall be fined not more than five hundred nor less than one hundred dollars; all property, real or personal, which is used with the knowledge of the owner thereof in violation of this section, shall be liable for the fines and costs assessed for such violation, without exemption. (6924; 63 v. 96.)

SEC. 63. [Permitting emptying of coal dirt, petroleum, etc., into rivers, etc.; penalty.] Whoever intentionally throws or deposits or permits to be thrown or deposited, any coal dirt, coal slack, coal screenings, or coal refuse from coal mines, or any refuse or filth from any coal oil refinery or gas works, or any whey or filthy drainage from a cheese factory, upon or into any of the rivers, lakes, ponds, or streams of this state, or upon or into any place from which the same will wash into any such river, lake, pond or stream; or whoever shall, by himself, agent or employe, cause, suffer or permit any petroleum or crude oil, or refined oil or refuse matter or filth from any oil well, or oil tank, or oil vat, or place of deposit of crude or refined oil, to run into, or be poured, or emptied, or thrown into any river, or ditch, or drain, or water course, or into any place from which said petroleum, or crude oil, or refuse matter, or filth or refined oil may run or wash, or does run or wash into any such river, or ditch, or drain, or water-course, shall be fined in any sum not more than one thousand dollars nor less than fifty dollars; and such fine and costs of prosecution shall be and remain a lien on said oil well, oil tank, oil refinery, oil vat and place of deposit, and the contents of said oil well, oil tank, oil refinery, oil vat or place of deposit, until said fine and costs are paid; and said oil well, oil tank, oil refinery, oil vat or place of deposit, and the contents thereof, may be sold for the payment of such fine and costs, upon execution duly issued for that purpose. (1890, April 28: 6925; 87 v. 351.)

SEC. 64. [Obstructing ditch, drain or water-course.] Whoever willfully obstructs any ditch, drain or water-course constructed by proceedings before any board of county commissioners or township trustees, or diverts the water therefrom, shall be fined not more than one hundred nor less than ten dollars. (6926; 72 v. 150.)

SEC. 65. [Befouling well, spring, etc.] Whoever maliciously puts any dead animal, carcass, or part thereof, or any other putrid, nauseous, noisome, or offensive substance, into, or in any manner befouls, any well, spring, brook, or branch of running water, or any reservoir of water-works, of which use is or may be made for domestic purposes, shall be fined not more than fifty nor less than five dollars, or imprisoned not more than sixty days, or both. (6927; 70 v. 12.)

If an individual erects a mill-dam which causes disease and sickness, he is responsible to individual sufferers in an action on the case for a nuisance. In such a case it is no defense that the injury affects the whole neighborhood. Nor is the civil remedy merged by an indictment and conviction. [Story *v.* Hammond, 4 O. R., 376.]

A city erecting and controlling a work house is liable in damages for the corruption of a water course into which it has run the sewage of the institution, just as a private individual would be liable. [Cleveland *v.* Beaumont, 4 Bull. 345; 2 Clev. Rep. 172.]

The power of creating municipal corporations necessarily implies authority to confer upon them such police powers as may be necessary for their internal government; and a resolution under the municipal act of 1852 directing lot owners "to fill and drain their lots in such manner as shall be necessary to remove all stagnant water," being a reasonable sanitary measure, was not in conflict with the constitution. [Bliss *v.* Kraus, 16 O. S. 54.]

The judgment required by the statute, upon conviction for maintaining a nuisance, under the act of April 15, 1857, can not be dispensed with upon a showing that the nuisance does not exist at the time of rendering the judgment. The order to abate does not issue as a matter of course. If the nuisance has ceased, the order will not issue. [Smith *v.* State, 22 O. S. 539; Matthews *v.* State, 25 O. S. 536.]

A creek known by the name of the Middle Fork of Beaver, and also by the name of the Middle Fork of *Little* Beaver, is sufficiently described in an indictment by the first name alone. [Bossert *v.* State, W. 113.]

DIVISION III.

RELATING TO

Food, Drugs and their Adulteration

DAIRY AND FOOD COMMISSIONER.

SEC. 66. **[Ohio dairy and food commissioner: election of, salary and expenses.]** That there is hereby created the office of dairy and food commissioner of the state of Ohio. Said commissioner shall be elected by the qualified electors of the state of Ohio, under and in pursuance of the general election laws of the state of Ohio, at the general election held on the first Tuesday after the first Monday in November, A. D. 1891, a dairy and food commissioner who shall take his office on the first Tuesday after the first Monday in May after his election, who shall serve for two years or until his successor is elected and qualified; his salary shall be twelve hundred dollars per year and his necessary and reasonable expenses incurred in the discharge of his official duties under this act, to be paid at the end of each calendar month on presentation of vouchers properly itemized and certified by him to be correct; said expenses to be paid out of the general revenue fund, but not to exceed six hundred dollars in any one year. (1891, May 1: 8035-272; 88 v. 496.)

SEC. 67. **[General duties of himself and assistants.]** It shall be the duty of said commissioner or assistant commissioner, to inspect any articles of butter, cheese, lard, syrup, or other article of food or drinks, made or offered for sale in the state of Ohio, as an article of food or drink, and to prosecute or cause to be prosecuted, any person or persons, firm or firms, corporation or corporations, engaged in the manufacture or sale of any adulterated article or articles of food or drink, or adulterated in violation of, or contrary to any laws of the state of Ohio. (8035-273; 84 v. 205.)

SEC. 68. **[Powers.]** The said commissioner, or any assistant commissioner, shall have power in the performance of their duty to enter into any creamery, factory, store, salesroom, drug store or laboratory, or place where they have reason to believe food or drink are made, prepared, sold, or offered for sale, and to examine their books, and to open any cask, tub, jar, bottle or package, containing or supposed to contain any article of food or drink, and examine or cause to be examined and analyzed the contents thereof, and it shall be the duty of any prosecuting attorney in any county of the state, when called upon by said commissioner or assistant commissioner, to render him any legal assistance in his power, to execute the laws, and to assist in the prosecution of cases, arising under provisions of this act. (8035-274; 84 v. 205.)

SEC. 69. [Assistant commissioners. Expert chemists.] Said commissioner may appoint not more than two assistant commissioners, whose salaries shall be one thousand dollars each, per annum, and their necessary and reasonable expenses incurred in the discharge of their official duties, payable in time and manner like that of the commissioner and on itemized vouchers approved by the said commissioner. The said commissioner shall have power to appoint three expert chemists to be of acknowledged standing, ability and integrity, to examine and analyze samples of food and drink, or of drugs or medicines submitted to them by the commissioner or assistant commissioners. The compensation of said expert chemists shall be for the actual number of determinations or examinations required and made, and shall not exceed for each determination or examination two-thirds the price usually paid experts for a single determination or examination of a similar kind. The compensation of said expert chemists shall be paid at the end of each quarter of the calendar year, on itemized vouchers certified to by said commissioner, which said amount of expenses shall not exceed, in any one year for the three expert chemists combined, the sum of one thousand dollars, the sum to be paid out of the general revenue fund. (1891, May 1: 8035-275; 88 v. 497.)

SEC. 70. [Fines.] All fines assessed or collected under prosecutions, begun or caused to be begun by the said commissioner or assistant commissioners, shall be paid into the state treasury. (8035-276; 84 v. 205.)

ADULTERATION DEFINED.

SEC. 71. [Adulterated drug or food.] No person shall, within this state, manufacture for sale, offer for sale, or sell any drug or article of food which is adulterated, within the meaning of this act. (7458-7; 81 v. 67.)

SEC. 72. [Term drug defined.] The term "drug," as used in this act, shall include all medicines for internal or external use, antiseptics, disinfectants and cosmetics. The term "food," as used herein, shall include all articles used for food or drink by man, whether simple, mixed or compound. (7458-8; 81 v. 67.)

SEC. 73. [When drugs and food deemed adulterated.] An article shall be deemed to be adulterated within the meaning of this act:

(*a*) In the case of drugs: (1) If, when sold under or by a name recognized in the United States Pharmacopœia, it differs from the standard of strength, quality or purity laid down therein; (2) If, when sold under or by a name not recognized in the United States Pharmacopœia but which is found in some other pharmacopœia, or other standard work on materia medica, it differs materially from the standard of strength, quality, purity laid down in such work; (3) If its strength, quality, or purity falls below the professed standard under which it is sold.

(*b*) In the case of food: (1) If any substance or substances have been mixed with it, so as to lower or depreciate, or injuriously affect its quality, strength, or purity; (2) If any inferior or cheaper substance or substances have been substituted wholly or in part for it; (3) If any valuable or necessary constituent or ingredient has been wholly or in part abstracted from it; (4) If it is an imitation of, or is sold under the name of another article; (5) If it consists wholly, or in part, of a diseased, decomposed, putrid, infected, tainted or rotten animal or veg-

etable substance or article, whether manufactured or not—or, in the case of milk, if it is the produce of a diseased animal; (6) If it is colored, coated, polished or powdered, whereby damage or inferiority is concealed, or if by any means it is made to appear better or of greater value than it really is; (7) If it contains any added substance or ingredient which is poisonous or injurious to health; provided, that the provisions of this act shall not apply to mixtures or compounds recognized as ordinary articles or ingredients of articles of food, if each and every package sold or offered for sale be distinctly labeled as mixtures or compounds, with the name and per cent. of each ingredient therein, and are not injurious to health. (1890, April 22: 7458–9; 87 v. 248.)

Sec. 74 **[Sample may be demanded for analysis.]** Every person manufacturing, offering or exposing for sale, or delivering to a purchaser, any drug or article of food included in the provisions of this act, shall furnish to any person interested, or demanding the same, who shall apply to him for the purpose, and shall tender him the value of the same, a sample sufficient for the analysis of any such drug or article of food which is in his possession. (7458–10; 81 v. 68.)

Sec. 75. **[Penalties.]** Whoever refuses to comply, upon demand, with the requirements of section *four* [7458–11], and whoever violates any of the provisions of this act, shall be guilty of a misdemeanor, and upon conviction shall be fined not exceeding one hundred dollars nor less than twenty-five dollars, or imprisoned not exceeding one hundred nor less than thirty days, or both. And any person found guilty of manufacturing, offering for sale or selling an adulterated article of food or drug under the provisions of this act, shall be adjudged to pay in addition to the penalties hereinbefore provided for, all necessary costs and expenses incurred in inspecting and analyzing such adulterated articles of which said person may have been found guilty of manufacturing, selling or offering for sale. (7458–11; 81 v. 68.)

DAIRY PRODUCTS.

Sec. 76. **[Regulating the sale of milk.]** Whoever, by himself or by his servant, or agent, or as the servant or agent of any other person, sells, exchanges or delivers, or has in his custody or possession with intent to sell or exchange, or exposes or offers for sale or exchange, adulterated milk, or milk to which water or any foreign substance has been added, or milk from diseased or sick cows, shall, for a first offense, be punished by a fine of not less than fifty nor more than two hundred dollars; for a second offense, by fine of not less than one hundred dollars nor more than three hundred dollars, or by imprisonment in the work-house for not less than thirty nor more than sixty days; and for a subsequent offense, by fine of fifty dollars, and by imprisonment in the work-house of not less than sixty nor more than ninety days. (7458–12; 86 v. 229.)

Sec. 77. **[Pure milk.]** Whoever, by himself or by his servant or agent, or as the servant or agent of any other person, sells, exchanges or delivers, or has in his custody or possession, with intent to sell or exchange, or exposes or offers for sale as pure milk, any milk from which the cream or part thereof has been removed, shall be punished by the penalties provided in the preceding section. (7458–13; 86. v. 229.)

Sec. 78. **[Skimmed milk.]** No dealer in milk, and no servant or agent of such a dealer, shall sell, exchange, or deliver, or have in his cus-

tody or possession, with intent to sell, exchange or deliver, milk from which the cream or part thereof has been removed, unless in a conspicuous place, above the center, upon the outside of every vessel, can or package, from which or in which such milk is sold, the words "skimmed milk" are distinctly marked in uncondensed gothic letters not less than one inch in length. Whoever violates the provisions of this section shall be punished by the penalties provided in section 7458-12. (7458-14; 86 v. 229.)

SEC. 79. [**Adulterated milk defined.**] In all prosecutions under this chapter, if the milk is shown upon analysis, to contain more than eighty-seven per cent. of watery fluid, or to contain less than twelve and one-half per cent. solids, nor [not] less than one-fourth of which must be fat, it shall be deemed, for the purpose of this chapter, to be adulterated, and not of good standard quality, except during the months of May and June, when milk containing less than twelve per cent. of milk solids shall be deemed to be not of good standard quality. (1891, January 30; 88 v. 12.)

SEC. 80. [**Restrictions on sale of artificial dairy products.**] No person shall sell, expose or offer for sale or exchange, any substance purporting, appearing, or represented to be butter or cheese, or having the semblance of either butter or cheese, which substance is not made wholly from pure milk, or cream, salt and harmless coloring matter, unless it is done under its true name, and each vessel, package, roll or parcel of such substance has distinctly and durably painted, stamped, stenciled or marked thereon the true name of such substance in ordinary bold faced capital letters, not less than five-line pica in size, and also the name of each article or ingredient used or entering into the composition of such substance, in ordinary bold faced letters, not [less] than pica in size, or sell or dispose of in any manner to another any such substance without delivering with each amount sold or disposed of, a label on which is plainly or legibly printed in ordinary bold faced capital letters, not less than five-line pica in size, the true name of such substance, and also the name of such articles used and entering into the composition of such substance in ordinary bold faced letters, not less than pica in size, if the same be not made wholly from pure milk, or cream, salt and harmless coloring matter; and the words "butter," "creamery," or "dairy," or any word or combination of words embracing the same, shall not be placed on any vessel, package, roll or parcel containing any imitation dairy product or substance not made wholly from pure milk, or cream, salt, and harmless coloring matter. (7090-1; 84 v. 182.)

SEC. 81. [**Restrictions on manufacture of.**] No person or persons shall manufacture out of any oleaginous substance or substances, or any compound of the same other than that produced from unadulterated milk or cream, salt and harmless coloring matter, any article designed to be sold as butter or cheese made from pure milk or cream, salt and harmless coloring matter. Nothing in this section shall prevent the use of pure skimmed milk in the manufacture of cheese. (7090-2; 83 v. 178.)

SEC. 82. [**Further restrictions on manufacture, sale of, etc.**] No person or persons shall manufacture, mix, compound with or add to natural or pure milk, cream, butter or cheese, any animal fats, animal, mineral or vegetable oils, nor shall any person or persons manufacture any oleaginous or other substance not produced from pure milk or cream, salt and harmless coloring matter, or have the same in his possession, or offer or expose the same for sale or exchange with intent to sell or in any manner dispose of the same as and for butter and cheese made from unadultered milk or

cream, salt and harmless coloring matter, nor shall any substance or compound so made be sold or disposed of to any one as and for butter or cheese made from pure milk or cream, salt and harmless coloring matter. (7090–3; 83 v. 179.)

SEC. 83. **[False brands and labels.]** No person or persons shall sell, exchange, expose or offer for sale or exchange, dispose of or have in his possession any substance or article made in imitation or resemblance of, or as a substitute for any dairy product which is falsely branded, stenciled, labeled or marked as to the place where made, the name or cream value thereof, its composition or ingredients, or in any other respect. (7090–4; 83 v. 179.)

SEC. 84. **[Brands, continued; skimmed milk cheese.** [No person or persons shall sell. exchange, expose or offer for sale or exchange, dispose of or have in his possession any dairy products which are falsely branded, stenciled, labeled or marked as to the place where made, date of manufacture, the name or cream value thereof, composition or ingredients, or in any other respect, and cheese wholly made from skimmed milk shall have branded upon the box or can "made from skimmed milk." (7090–5; 83 v. 179.)

SEC. 85. **[Card to be displayed by dealers in artificial dairy products; sale of less than original package.]** Every person in this state who shall deal in, keep for sale, expose or offer for sale or exchange, any substance other than butter or cheese made wholly from pure milk or cream, salt and harmless coloring matter, which appears to be, resembles or is made in imitation of, or as a substitute for butter or cheese, shall keep a card not less in size than ten by fourteen inches, in a conspicuous and visible place where the same may be easily seen and read in the store, room, stand, booth, wagon or place where such substance is, on which card shall be printed, on a white ground, in bold, black, Roman letters, not less in size than twelve-line pica, the words, "oleomargarine" or "imitation cheese," (as the case may be), "sold here," and said card shall not contain any other words than the ones above prescribed; and no person shall sell any oleomargarine, suine, imitation cheese, or other imitation dairy product, at retail or in any quantity less than the original package, tub or firkin, unless he shall first inform the purchaser that the substance is not butter or cheese, but an imitation of the same. (7090–6; 85 v. 74.)

SEC. 86. **[Card to be displayed by keepers of hotels, restaurants, etc.]** Every proprietor, keeper, or manager, or person in charge of any hotel, boarding house, restaurant, eating house, lunch counter, or lunch room, who therein sells, uses, or disposes of any substance which appears to be, resembles, or is made in, or as an imitation of, or is made as a substitute for butter or cheese, under whatsoever name, and which substance is not wholly made from pure milk or cream, salt, and harmless coloring matter, shall display and keep a card in a conspicuous place, where the same may be easily seen and read in the dining, eating, restaurant, and lunch room, and place where such substance is sold, used, or disposed of, which card shall be white and in size not less than ten by fourteen inches, upon which shall be printed in plain, bold, black Roman letters, not less in size than twelve-line pica, the words "oleomargarine sold and used here," or "imitation cheese sold and used here," (as the case may be), and said card shall not contain any other words than the ones above described, and such proprietor, keeper, manager, or person in charge shall not sell, furnish, or dispose of such substance as and for "butter and

cheese," made from pure milk or cream, salt, and harmless coloring matter, when butter or cheese is asked for. 7090–7; 85 v. 75.)

SEC. 87. [**Fraudulent shipments.**] No person or persons shall pack, box, inclose, ship or consign any substance, as butter or cheese made from pure milk or cream, salt and harmless coloring matter, in such a manner as to conceal an inferior article by placing a finer grade of butter or cheese upon the surface of the same. (7090–8; 83 v. 180.)

SEC. 88. [**Sale of diluted milk; false accounts.**] No person or persons shall sell to any person, or deliver or carry or cause to be carried to any cheese or butter factory to be manufactured, any milk diluted with water or in any way adulterated, or from which any cream has been taken, or milk commonly known as "skimmed milk," or milk from which [the] part known as "strippings" has been withheld with the intent to defraud, or keeps or renders any false account of the quantity or weight of milk furnished at or to any factory for manufacture or sold to any manufacturer. (7090–9; 83 v. 180.)

SEC. 89. [**Impure and skimmed milk.**] No person or persons shall sell, exchange or offer for sale or exchange, any unclean, impure, unhealthy, unwholesome milk, or sell, exchange, or offer for sale or exchange as "pure milk," milk diluted with water or milk known as skimmed milk. (7090–10; 83 v. 180.)

SEC. 90. [**Milk falsely labeled, etc.**] No person or persons shall sell, exchange, expose, or offer for sale or exchange, have in his possession or dispose of in any manner, any milk which is falsely branded, labeled, marked or represented as to grade, quantity or place where produced or procured. (7090–11; 83 v. 180.)

SEC. 91. [**Cows unhealthily fed, etc.**] No person shall keep cows for the production of milk for any purpose, in a cramped or unhealthy condition, or feed them on unhealthy food, or upon food that produces impure, unhealthy or unwholesome milk. (7090–12; 83 v. 180.)

SEC. 92. [**Condensed milk.**] No person shall manufacture, sell, exchange, expose or offer for sale or exchange, any condensed milk, unless the package, can or vessel containing the same shall be distinctly labeled, stamped or marked with its true name, brand, by whom and under what name made, and no condensed milk shall be made, exchanged, exposed or offered for sale or exchange, unless the same be made from pure, clean, healthy, fresh unadulterated and wholesome milk, from which the cream has not been removed, or unless the proportion of milk solids contained in the condensed milk shall be in amount the equivalent of twelve per centum of milk solids in crude milk, and of such solids, twenty-five per centum shall be fat. (7090–13; 83 v. 180.)

SEC. 93. [**State institutions.**] No butter or cheese not made wholly from pure milk or cream, salt and harmless coloring matter, shall be used in any of the charitable or penal institutions of the state. (7090–14; 83 v. 180.)

SEC. 94. [**Penalties.**] Any person or persons violating any of the provisions or sections of this act shall, upon conviction thereof be fined not less than fifty or more than two hundred dollars for the first offense, or for each subsequent offense not less than one hundred dollars or more

than five hundred dollars, and be imprisoned not less than ten days or more than ninety days, or both. (7090–15; 83 v. 180.)

SEC. 95. [**Informers.**] One-half of all fines collected under any of the provisions of this act, shall be paid over to the person or persons furnishing information under which conviction is procured. (7090–16; 83 v. 180.)

SEC. 96. [**Butter and cheese: manufacture of articles in imitation of natural, prohibited.**] No person, by himself or his agent, or his employe, shall render or manufacture for sale out of any animal or vegetable oils, not produced from unadulterated milk or cream from the same, any article in imitation or semblance of natural butter or cheese produced from pure unadulterated milk or cream from the same, nor compound with, or add to milk, cream or butter any acids or other deleterious substance, or animal fats or animal or vegetable oils not produced from milk or cream, so as to produce any article or substance, or any human food, in imitation or semblance of natural butter or cheese, nor shall sell, keep for sale or offer for sale any article, substance or compound made, manufactured or produced in violation of the provisions of this section, whether such article, substance or compound shall be made or produced in this state or elsewhere. (1890, March 7: 87 v. 51.)

SEC. 97. [**"Natural butter and cheese," etc., defined; oleomargarine.**] For the purpose of this act the terms "natural butter and cheese," "natural butter or cheese produced from pure unadulterated milk or cream from the same, butter and cheese made from unadulterated milk or cream, butter or cheese the product of the dairy," and butter or cheese, shall be understood to mean the products usually known by the terms butter and cheese, and which butter is manufactured exclusively from pure milk or cream or both, with salt and with or without any harmless coloring matter, and which cheese is manufactured exclusively from pure milk or cream, or both, with salt and rennet and with or without any harmless coloring matter or sage. It is further provided that nothing in this act shall be construed to prohibit the manufacture or sale of oleomargarine, in a separate and distinct form, and in such manner as will advise the consumer of its real character, free from any coloring matter or other ingredient causing it to look like or to appear to be butter, as above defined. (1890, March 7: 87 v. 51.)

SEC. 98. [**Penalty.**] Whoever violates the provisions of this act shall be guilty of a misdemeanor, and be punished by a fine of not less than one hundred dollars, nor more than five hundred, or not less than six months' nor more than one year's imprisonment for the first offense, and by imprisonment for one year for each subsequent offense. (1890, March 7: 87 v. 52.)

SEC. 99. [**Selling unwholesome provisions.**] Whoever sells any kind of diseased, corrupted, adulterated, or unwholesome provisions, whether for meat or drink, without making the condition of the same known to the buyer, and whoever kills for the purpose of sale, any calf less than four weeks' old, or sells, or has in possession within intent to sell, the meat of any calf which he knows to have been killed when less than four weeks' old, shall be fined not more than fifty dollars, or imprisoned twenty days, or both. (6928; 29 v. 144.)

CANDY.

SEC. 100. [**Manufacture and sale of adulterated candy.**] No person shall manufacture for sale, or sell or offer to sell any candy adulterated by the admixture of terra alba, berytes, talc or other mineral substance, or poisonous colors or flavors, or other ingredients deleterious or detrimental to health. (7458–4; 83 v. 119.)

SEC. 101. [**Samples.**] Every person manufacturing any candy, or offering or exposing the same for sale, shall furnish to any person interested or demanding the same, who shall apply to him for that purpose, and shall tender him the value of the same, a sample sufficient for the analysis thereof. (7458–5; 83 v. 119.)

SEC. 102. [**Penalties.**] Whoever refuses to comply, upon demand, with the requirements of section 2 [7458–4] and whoever violates any of the provisions of this act, shall be guilty of a misdemeanor, and upon conviction, shall be fined not exceeding one hundred dollars nor less than twenty-five dollars, or imprisoned not exceeding one hundred nor less than thirty days, or both; and he shall be adjudged to pay in addition all necessary costs and expenses incurred in the inspecting and analyzing such adulterated candy, and the same shall be forfeited and destroyed under the direction of the court. (7458–6; 83 v. 119.)

VINEGAR.

SEC. 103. [**Manufacturing and sale of adulterated vinegar forbidden.**] No person shall manufacture for sale, or knowingly offer or expose forsale as cider, apple, or orchard vinegar, any vinegar not the legitimate product of pure apple juice, known as apple cider; or vinegar not made exclusively of said apple cider; or vinegar into which foreign substances, drugs or acids have been introduced, as may appear by proper test. (7458–16; 85 v. 259.)

SEC. 104. [**Injurious ingredients.**] No person shall manufacture for sale, or knowingly offer for sale, or have in his possession with intent to sell, any vinegar found upon proper tests to contain any preparation of lead, copper sulphuric acid, or other ingredients injurious to health. (7458–17; 85 v. 259.)

SEC. 105. [**Brands on casks.**] Every person making or manufacturing cider vinegar, who is not a domestic manufacturer of cider or cider vinegar, shall brand on each head of the cask, barrel or keg containing such vinegar, the name and residence of the manufacturer, the date when same was manufactured, and the words "Cider Vinegar." And no vinegar shall be branded "Fruit Vinegar," unless the same be made wholly from apples, grapes, or other fruit. (7458–19; 85 v. 259.)

SEC. 106. [**Penalties.**] Whoever violates any of the provisions of this act shall, upon conviction, be fined not less than fifty dollars, nor more than one hundred dollars, or imprisoned not less than thirty days, nor more than one hundred days, or both; and shall be adjudged to pay in addition all necessary costs and expenses incurred in inspecting and analyzing such vinegar. And all vinegar not in accordance with this act shall be subject to forfeiture and spoliation. (7458–20; 85 v. 259.)

DIVISION IV.

Relating to Wines and Liquors.

SEC. 107. **[Adulterated wine: defined; penalty for manufacturing or selling.]** All liquors denominated as wine containing alcohol, "except such as shall be produced by the natural fermentation of pure, undried grape-juice," or compounded with distilled spirits, or by both methods, whether denominated as wine, or by any other name whatsoever, in the nature of articles for use as beverages, except as allowed in section four of this act, or for compounding with other liquors for such use, and all compounds of the same with pure wine, and all preserved fruit-juices compounded with substances not produced from undried fruit, in character of, or intended for use as beverages, and all wines, (including all grades and kinds) which contain, or in the production or manufacture of which, any glucose, or uncrystallized grape or starch sugar, or cider, or pomace of grapes out of which the juice has been pressed or extracted, known as grape cheese, has been used, and all wines, imitation of wines or other beverages produced from fruit into which carbonic acid gas has been artificially injected, or which shall contain any alum, baryta, salts, caustic lime, carbonate of soda, carbonate of potash, carbonic acid, salts of lead, salicylic acid or any other antiseptic, coloring matter (other than produced from undried fruit, or pure sugar), essence of either, or any foreign substance whatever, which is injurious to health, shall be denominated as adulterated wine, and any person or persons who shall manufacture or cause the same to be done, with intent to sell or shall sell or offer to sell, any of such wine or beverage, shall be guilty of a misdemeanor, and shall be punished by a fine of not less than two hundred dollars, or more than one thousand dollars, or be imprisoned in the county jail for a term of not less than thirty days or more than six months, or by both such fine and imprisonment, in the discretion of the court, and shall be liable to a penalty of one dollar for each gallon thereof sold, offered for sale, or manufactured with intent to sell, and such wine or beverage shall be deemed a public nuisance and forfeited to the state, and shall be summarily seized and destroyed by any health officer, marshal, constable or sheriff, within whose jurisdiction the same shall be found, and the reasonable expense of such seizure and destruction not exceeding the amount paid for similar services, shall be a county charge, and paid out of the county treasury in the same manner as costs in criminal cases, where the state fails to convict, are now allowed and paid out of such treasury. (1891, March 26: 7458–21; 88 v. 231.)

SEC. 108. **[Pure wine: defined; must be stamped as such.]** For the purpose of this act the words "pure wine" shall be understood to mean fermented juice of the undried grapes, without the addition thereto of water, sugar, or any foreign substance whatever; and all such wines shall

be known as "pure wine" and shall be stamped, branded, labeled designated and sold as "pure wine," and the name and kind of wine, and that of the locality where such wine is made, and of the manufacturer, may also be added; and it shall be unlawful to affix any stamp, brand or label containing the words "pure wine" (either alone or with other words) on any vessel, package, bottle or other receptacle containing any substance other than pure wine as in this section defined, or to prepare or use on any vessel, package, bottle or other receptacle containing any liquid, any imitation or counterfeit of such stamp, label or brand, or any stamp, label or brand of such form and appearance as to be calculated to mislead or deceive any person, or cause to be supposed that the contents thereof be pure wine, or to use any vessel, package, bottle or other receptacle, having such stamp, brand or label affixed thereon, except for pure wine, as in this section defined; and if the name of the manufacturer is added, then only of such manufacturer's make, providing the same is pure wine. And any person selling such wine, shall in the invoice thereof plainly state and designate the same as "pure wine." (1891, March 26: 7458–22; 88 v. 231.)

SEC. 109. **[Wine: defined; must be stamped as such.]** For the further purpose of this act the word "wine" shall be understood to mean the fermented juice of undried grapes; provided, however, that the addition of pure white or crystalized sugar to perfect the wine, or the using of the necessary things to clarify and refine the wine which are not injurious to health, shall not be construed as adulterations, but such wines shall contain at least seventy-five per cent. of pure grape-juice, and shall not contain any artificial flavoring whatever; and all such "wine" shall be known as "wine," and shall be stamped, branded, labeled and sold as "wine," in the same manner as is provided in section two [7458–22] of this act in case of pure wine, except the words in this case shall be "wine" without the prefix "pure;" and all the provisions of said section two, as far as applicable, shall govern the manufacture and sale of "wine" as in this section defined. And any person selling such wine shall in the invoice thereof plainly state and designate the same as "wine" without using the prefix "pure." (1891, March 26: 7458–23; 88 v. 232.)

SEC. 110. **[Compounded wine: defined; must be branded as such.]** For the further purpose of this act, the word "compounded wine" shall be understood to mean any wine which contains less than seventy-five per cent. of pure undried grape-juice, and is otherwise pure, and all wines containing alcohol or any other distilled spirits not produced by the natural fermentation of pure undried grapes, such wine shall be known as compounded wine, and shall be branded, marked, labeled and sold as compounded wine, and the name of such wine may be added, or such wine shall be branded, labeled and marked by using the word "compounded" next preceding the name of such wine, such as "compounded sweet catawba," or "compounded port wine," or the like (and an addition of pure distilled spirits not to exceed eight per cent. of its volume shall not be taken to be an adulteration of such wine); and upon each and every package, barrel or other receptacle of such wine, which shall contain more than three gallons, there shall be stamped upon both ends of such package, barrel or other receptacle, in black printed letters at least one inch high and of proper proportion, the words "compounded wine," or the name of such wine, preceded by the word "compounded" as in this section provided, and upon all packages or other receptacles which shall contain more than one quart and up to three gallons, there shall be stamped upon each of said packages or receptacles in plain, printed black letters, at least

one-half inch high, and of proper proportion, the words "compounded wine," or the name of such wine, preceded by the word "compounded" as in this section provided, and upon all packages, bottles or other receptacle of one quart or less, there shall be placed a label securely pasted thereon, on which label the words "compounded wine," or the name of the wine, preceded by the word "compounded," shall be plainly printed in black letters at least one-fourth of an inch high and of proper proportion. Should any number of such packages or other receptacle be inclosed in a larger package, as a box, barrel, case or basket, such outside package shall also receive the stamp, "compounded wine" or the name of such wine, preceded by the word "compounded," the letters to be the size according to the amount of such wine contained in such outside packages. And any person selling wine of the kind this section defined, shall in the invoice thereof plainly state and designate such wine as "compound wine." (1891, March 26: 7458-24; 88 v. 232.)

SEC. 111. **[Penalty for violating this act; duty of prosecuting attorney.** Any person or persons who shall sell or offer for sale, or manufacture or cause the same to be done, with intent to sell any wine stamped or labeled, or branded, or designated in any manner as "pure wine," either by including the word "pure" with "wine" alone or in connection with other words, which is not "pure wine" as is in section two [7458-22] of this act defined, or any wine stamped, or labeled or branded, or in any manner designated as "wine," but which is not wine as in section three [7458-23] of this act defined, or shall violate any provision of said sections two and three of this act, or shall sell or offer for sale, or manufacture, or cause the same to be done, with intent to sell any wine of the kind and character as described in the fourth section [7458-24] of this act, which shall not be stamped, marked, or labeled after the manner and mode therein prescribed, or which is falsely stamped, or marked, or labeled, such person or persons shall be guilty of a misdemeanor, and shall be punished by a fine of not less than one hundred dollars or more than one thousand dollars for each and every offense, or by imprisonment in the county jail not less than thirty days, or more than six months, or both fine and imprisonment, in the discretion of the court, and in addition thereto shall be liable to a penalty of one-half dollar for each gallon thereof sold, offered for sale, or manufactured with intent to sell or offer for sale. All penalties imposed by this act, may be recovered with costs of action by any person in his own name, before any justice of the peace in the county where the offense was committed, where the amount does not exceed the jurisdiction of such justice; and such penalties may be recovered in the like manner in any court of record in the state, but on the recovery by the plaintiff in such case for a sum less than fifty dollars, the plaintiff shall only be entitled to costs to amount equal to the amount of such recovery. It shall be the duty of the prosecuting attorney of the respective counties of this state, and they are hereby required to prosecute or commence action in the name of the state of Ohio, for the recovery of the penalties allowed herein, upon receiving proper information thereof, and in actions brought by such prosecuting attorney, one-half of the penalty recovered shall belong to and be paid over to the person or persons giving the information upon which the action is brought, and the other one-half shall be paid to the treasurer of the county in which said action is brought, within thirty days from the time of its collection, and such money shall be placed to the credit of the poor fund of the town, city or township in which the cause of action arose, after paying therefrom a

SEC. 113. [**Adulterating liquors.**] Whoever adulterates, except for medicinal or mechanical purposes any spirituous or alcoholic liquors, by mixing the same with any substance, or sells or offers to sell, any such liquor, knowing the same to be thus adulterated, or imports into this state and sells or offers to sell, any such liquor, knowing the same to be thus adulterated, and not inspected as required by law, shall be fined not more than five hundred nor less than one hundred dollars, and imprisoned not more than thirty nor less than ten days. (6950; 52 v. 108)

SEC. 114. [**Adulterating domestic wines.**] Whoever adulterates any wine made, or juice expressed, from grapes grown within the state of Ohio, by mixing therewith any drugs, chemicals, cider, whisky, or other liquor; and whoever sells, or offers to sell, any such adulterated wine or grape juice, knowing the same to be adulterated, shall be fined in any sum not more than three hundred nor less than fifty dollars. (7081; 62 v. 179.)

SEC. 115. [**Adulterating or selling adulterated liquors, how punished.**] Whoever adulterates, for the purpose of sale, any spirituous, alcoholic or malt liquors used or intended for drink, or medical or mechanical purposes, with cocculus-indicus, vitriol, grains of paradise, opium, alum, capsicum, copperas, laurel water, logwood, Brazil-wood, cochineal, sugar of lead, aloes, glucose, tannic acid, or any other substance which is poisonous or injurious to health, or with any substance not a necessary ingredient in the manufacture thereof; and whoever sells or offers or keeps for sale any such liquors so adulterated, shall be fined in any sum not less than twenty nor more than one hundred dollars, or be imprisoned not less than twenty nor more than sixty days, or both, at the discretion of the court. And any person guilty of violating any of the provisions of this section, shall be adjudged to pay, in addition to the penalties hereinbefore provided for, all necessary costs and expenses incurred in inspecting and analyzing any such adulterated liquors of which said party may have been guilty of adulterating, or selling, or keeping for sale, or offering for sale. (7082; 79 v. 52)

SEC. 116. **Manufacturing or selling poisoned liquors.**] Whoever uses any active poison in the manufacture or preparation of any intoxicating liquor, or sells in any quantity any intoxicating liquor so manufactured or prepared, shall be imprisoned in the penitentiary not more than five years nor less than one year. (7083; 54 v. 183.)

SEC. 117. [**Using vessel with private stamp affixed.**] Whoever puts into any barrel, cask, or other vessel, having the private stamp, brand, wrapper, label, or trade-mark usually affixed by any maker of wine from grapes grown within the state of Ohio, adulterated liquors, for the

DIVISION V.

Relating to Pharmacy.

DRUGGIST AND STATE BOARD OF PHARMACY.

SEC. 119. [**Who may retail drugs; proviso.**] It shall be unlawful for any person not a registered pharmacist to open or conduct any pharmacy or retail drug or chemical store, as proprietor thereof, unless he shall have in his employ and place in charge of such pharmacy, or store, a registered pharmacist within the meaning of this chapter, who shall have the supervision and management of that part of the business requiring pharmaceutical skill and knowledge; or to engage in the occupation of compounding or dispensing medicines on prescriptions of physicians, or of selling at retail for medicinal purposes, any drugs, chemicals, poisons, or pharmaceutical preparations within this state, until he has complied with the provisions of this chapter; provided, nothing in this section shall apply to, or in any manner interfere with the business of any physician, or prevent him from supplying to his patients such articles as may seem to him proper, or with the making or vending of patent or proprietary medicines by any retail dealer, or with the selling by any country store of copperas, borax, blue vitriol, saltpeter, sulphur, brimestone, licorice, sage, juniper berries, senna leaves, castor oil, sweet oil, spirits of turpentine, glycerine, glauber salt, epsom salt, cream of tartar, bi-carbonate of sodium, and of paregoric, essence of peppermint, essence of cinnamon, essence of ginger, hive syrup, syrup of ipecac, tincture of arnica, syrup of tolu, syrup of squills, spirits of camphor, number six, sweet spirits of nitre, compound cathartic pills, quinine pills, and other similar preparations when compounded by a registered pharmacist and put up in bottles and boxes bearing the label of such pharmacist or wholesale druggist, with the name of the article and directions for its use on each bottle or box, or with the exclusively wholesale business of any dealer. (4405; 81 v. 61.)

SEC. 120. **[How pharmaceutical examining board appointed; vacancy in board, how filled.]** The Ohio State Pharmaceutical Association shall, immediately upon the passage of this act, submit to the governor the names of ten persons, residents of this state, who have had at least ten years' experience as pharmacists and druggists, and from the names so submitted to him or others, the governor shall, with the approval of the senate, select and appoint five persons, who shall constitute a board, to be styled the Ohio Board of Pharmacy; and any member of the board may be removed by the governor for good cause shown him; one member of said board shall be appointed, and hold his office for one year, one for two years, one for three years, one for four years, and one for five years, and until his successor shall be appointed and qualified; and at its regular annual meeting in each and every year thereafter, the said Ohio State Pharmaceutical Association shall select and submit to the governor the names of five persons, with the qualifications hereinbefore mentioned, and the governor shall, with the approval of the Senate, select and appoint from the names so submitted or others, one member of said board, who shall hold his office for five years, and until his successor shall be appointed and qualified. Any vacancy that may occur in said board shall be filled for the unexpired term by the governor, with the approval of the senate. Each member of said board shall, within ten days after his appointment, take and subscribe an oath or affirmation, before a competent officer, to faithfully and impartially perform the duties of his office. (4406; 81 v. 62.)

SEC. 121. **[Sessions of board, when and where held; duties of board; register to be kept; who may be registered without examination; salary of secretary; etc.]** The Ohio Board of Pharmacy shall hold three regular meetings in each year; one at Cincinnati on the second Monday of January, one at Columbus on the second Monday of May, and one at Cleveland on the second Monday of October, and such additional meetings, at such times and places, as may be determined upon by said board, at each of which meetings it shall transact such business as is required of it by law; said board shall make such rules, by-laws and regulations as may be necessary for the proper discharge of its duties, and shall make a report of its proceedings, including an itemized account of all moneys received and expended by said board, pursuant to this chapter, and a list of the names of all pharmacists duly registered under this act, to the secretary of state on the 15th day of November, 1884, and annually thereafter, and to the Ohio State Pharmaceutical Association. Said board shall keep a book of registration open at some place in Columbus, of which due notice shall be given in three or more newspapers of general circulation in this state, in which the name and place of business of every person duly qualified under this chapter to conduct, or engage in the business mentioned and described in section 4405, shall be registered. Every person now conducting or engaged in such business in this state as proprietor or manager of the same, or who being of the age of eighteen years, has been employed or engaged for three years preceding the passage of this act as an assistant in any retail drug store in the United States, in the compounding or dispensing of medicines on the prescriptions of physicians, who shall furnish satisfactory evidence in writing and under oath of such facts, within three months after the publication of said notice, shall be registered as a pharmacist, or assistant pharmacist, as the case may be, without examination. Every person who shall hereafter desire to conduct, or engage in such business in this state, shall appear before said board, and be registered within ten days after receiving a certificate of competency and qualification from said board. The said board shall demand and receive for

such registration from each and every person registered as a pharmacist, a fee of not exceeding three dollars, and from each and every person registered as an assistant pharmacist, a fee not exceeding two dollars, to be applied to the payment of the expenses arising under the provisions of this chapter. Provided, however, that no such fee shall be demanded of any person who has heretofore been registered as the proprietor or manager of such business or as an assistant therein, under the provisions of any law heretofore in force in this state. Every registered pharmacist, or assistant pharmacist, who desires to continue the practice of his profession, shall, triennially thereafter, during the time he shall continue in such practice, on such date as said board may determine, pay to the secretary of said board a registration fee, to be fixed by said board, but which shall in no case exceed, if a pharmacist, one dollar, if assistant pharmacist, fifty cents, for which he shall receive a renewal of said registration. Every certificate of registration granted under this act shall be conspiciously exposed in the prescription department of the drug or chemical store to which it applies, or in which the assistant is engaged. The secretary of said board shall receive a salary which shall be fixed by said board; he shall also receive his traveling and other expenses incurred in the performance of his official duties. The other members of said board shall receive the sum of three dollars for each day actually engaged in the service thereof, and all legitimate and necessary expenses incurred in attending the meetings of said board. Said salary, per diem and expenses shall be paid after an itemized statement of the same has been rendered and approved by the board from the fees and penalties received by said board under the provisions of this act. All moneys received in excess of said per diem allowance, and other expenses above provided for, shall be held by the secretary as a special fund for meeting the expenses of said board; he giving such bond as said board shall from time to time direct. (4407; 81 v. 62.)

SEC. 122. [**Duties of board with respect to examinations.**] The Ohio Board of Pharmacy shall examine every person who desires to carry on or engage in the business of a retail apothecary, or of retailing any drugs, medicines, chemicals, poisons or pharmaceutical preparations, or of compounding and dispensing the prescriptions of physicians, as proprietor and manager, touching his competency and qualification for that purpose, and upon a majority of the board being satisfied with such competency and qualification, as pharmacist, which certificate shall entitle the person named therein to conduct and carry on the business aforesaid, as proprietor and manager thereof, upon complying with the requirements of section 4407; and such board shall also examine each person who desires to engage in such business as assistant pharmacist, touching his competency and qualification, and upon any such person passing a satisfactory examination, shall furnish a certificate setting forth that he is a qualified assistant in pharmacy, which certificate shall enable the person named therein to engage in said business as an assistant pharmacist upon his complying with the provisions of section 4407. (4408; 81 v. 63.)

SEC. 123. [**To whom preceding provisions do not apply.**] The provisions of [section] 4408 shall not apply to any person engaged in the retail drug and apothecary business, as proprietor or manager of the same, at the time of the passage of this act, or who, being at the age of eighteen years has been continuously employed or engaged for three years immediately preceding the passage of this act as assistant in any retail drug store in the United States, in the compounding or dispensing of medicines

on the prescriptions of physicians, who has complied with the provisions of section 4407. (4409; 81 v. 64.)

SEC. 124. **[Who may not compound prescriptions.]** No person, not a qualified assistant, shall be allowed by the proprietor or manager of any retail drug or chemical store, to compound or dispense the prescriptions of physicians, except as an aid under the supervision of a registered pharmacist, or his qualified assistant. (4410; 84 v. 220.)

SEC. 125. **[Qualified assistants.]** A qualified assistant, within the meaning of this chapter, shall be a clerk or assistant in a retail drug or chemical store, who shall furnish to the Ohio board of pharmacy such evidence of his employment as is required by section 4407; or a person holding the certificate of said board, as an assistant pharmacist, as provided in section 4408; but it shall be unlawful for such assistant pharmacist, or qualified assistant, to supervise or manage any pharmacy or retail drug or chemical store, or to engage in the occupation of compounding or dispensing medicines on prescriptions of physicians, or of selling at retail for medicinal purposes, any drugs, chemicals, poisons or pharmaceutical preparations, except when engaged or employed in a pharmacy, retail drug or chemical store which is in charge of, and is under the supervision and management of a registered pharmacist. (4411; 84 v. 220.)

SEC. 126. **[Penalties; duty of Ohio board of pharmacy.]** Any person owning a pharmacy or retail drug or chemical store, who, in violation of the provisions of section 4405 of this act, causes or permits the same to be conducted or managed by a person, not a registered pharmacist, shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall be fined in any sum not less than twenty dollars, nor more than one hundred dollars, and each week that he shall cause or permit such pharmacy, retail drug or chemical store to be so conducted or managed, shall constitute a separate and distinct offense, and render him liable to a separate prosecution and punishment therefor; a person violating the provisions of section 4407, relating to registration, renewal of registration, or failing to conspicuously expose such certificate of registration, shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall be fined in any sum not exceeding one hundred dollars for each week he continues to carry on or to be engaged in such business without such registration or such exposure of such certificate of registration, or renewal thereof. And for the violation of any of the provisions of section 4410, such proprietor or manager shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall be fined in any sum not exceeding fifty dollars for each and every offense; and for violation of any of the provisions of [section 4411, such assistant pharmacist shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall be fined in any sum not exceeding fifty dollars for each and every offense; all fines assessed for the violation of any of the provisions of this act shall be placed in the county treasury, for the use and benefit of the common school fund of the county in which such offense is committed; provided, that nothing in this act shall be so construed as to in any way affect the right to any person to bring a civil action against any person referred to in this act, for any act or acts for which a civil action may now be brought. It shall be the duty of the Ohio board of pharmacy, upon application therefor being made to said board, to cause the prosecution of any person or persons violating any of the provisions of this act. (4412; 84 v. 220.)

MORPHINE: POISONS.

SEC. 127. **[Morphine: by whom and how to be sold.]** It shall not be lawful for any person, other than a wholesale druggist or other dealer in drugs and medicine, to sell or offer for sale at wholesale, or for any person other than a registered pharmacist or a registered assistant pharmacist, to sell or offer for sale at retail, morphine or any of its salts, in this state, and it shall not be lawful for such persons to sell or offer for sale morphine or any of its salts in any bottle, vial, envelope or other package, unless the same shall be wrapped in a scarlet paper or envelope and all bottles or vials used for the above purpose shall contain not more than one drachm each, and shall have in addition to said scarlet wrapper, a scarlet label lettered in white letters, and the same must be upon both vial and wrapper when vials are used, plainly naming the contents of said bottle, and further, that no person shall have the right to change any preparation of morphine from its original package to any other receptacle whatever for the purpose of retailing or dispensing therefrom, but it must be retailed or dispensed only from the original package with scarlet wrapper and scarlet label as aforesaid. (8209–24; 83 v. 69.)

SEC. 128. **[Penalty.]** Any one violating the provisions of the above section, shall be guilty of a misdemeanor, and on conviction thereof shall be fined not less than ten nor more than fifty dollars, at the discretion of the court, for each and every violation of the preceding section. (8209–25; 83 v. 69.)

SEC. 129. **[Poisons: must be labeled by druggists, etc.]** Whenever any pharmacist, druggist or other dealer in poisons, chemicals, medicines and drugs, whether wholesale or retail, shall sell any drug or chemical, and indiscriminate or careless use of which would be destructive of human life, such dealer shall affix to each bottle or package of such drug, chemical or poison, a label printed in red ink, having on it the name of the article by which it is commonly known, the cautionary emblem of the skull and cross-bones, the words "caution" and "poison," and in addition thereto, at least two of the most readily obtainable effective antidotes to such poisonous article. (1890, April 21: 87 v. 235.)

SEC. 130. **[Penalty.]** Whoever violates the provisions of section one [the above section] of this act shall, upon conviction thereof before any court having competent jurisdiction, be fined in any sum not exceeding one hundred (100) dollars, nor less than ten (10) dollars. (1890, April 21; 87 v. 235.)

SEC. 131. **[Selling or giving away poisons.]** Whoever sells, or gives away, any quantity of arsenic less than one pound, without first mixing therewith soot or indigo in the proportion of one ounce of soot or half an ounce of indigo to the pound of arsenic, or, except upon the prescription of a physician, sells, or gives away, any quantity of any article belonging to the class usually denominated poisons, to any minor, or sells, or gives away, any such article to any person, without having first marked the word "poison" upon the label or wrapper containing the same, and registered in a book to be by him kept for that purpose, the day and date upon which it is sold or given away, the quantity thereof, the name, age, sex, and color of the person obtaining the same, the purpose for which it is required, and the name and place of abode of the person for whom the same is intended, shall be fined not more than two hundred nor less than twenty dollars. (6957; 50 v. 167.)

SEC. 132. [**Depositing poison in thoroughfares.**] Whoever leaves or deposits any poison, or any substance containing poison, in any common, street, alley, lane, or thoroughfare of any kind, or any yard or inclosure other than the yard or inclosure occupied by such person, shall be fined not more than fifty nor less than five dollars, or imprisoned not more than thirty nor less than five days, or both, and shall be liable to the person injured for all damages sustained thereby. (6958; 74 v. 13.)

SEC. 133. [**Sale and use of opium; keeping a place therefor; or resorting to such place, a misdemeanor; penalty.**] Every person who opens or maintains, to be resorted to by other persons, any place where opium, or any of its preparations is sold or given away, to be smoked at such place, and any person who at such place sells or gives away any opium or its said preparations, to be there smoked or otherwise used, and any person who visits or resorts to any such place for the purpose of smoking opium, or its said preparations, shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine not exceeding five hundred dollars ($500.), or by imprisonment in the county jail not exceeding three months or by both such fine and imprisonment. (7017-1; 82 v. 49.)

DIVISION VI.

RELATING TO THE

Practice of Medicine and Dentistry.

PHYSICIAN.

SEC. 134. [**Who may practice medicine; graduates from foreign states.**] No person who is not a graduate of a reputable school of medicine, either in the United States or a foreign country, or who can not produce a certificate of qualification from a state or county medical society, and is not a person of good moral character, shall practice, or attempt to practice medicine in any of its departments, or prescribe medicine for reward or compensation, for any person within this state; except that when a person has been continuously engaged in the practice of medicine for a period of ten years or more, he shall be considered to have complied with the provisions of this chapter; and when a person has been in continuous practice of medicine for five years or more, he shall be allowed two years in which to comply therewith. Provided, however, that any person who shall have graduated at any school of medicine in any state or foreign country in which any condition or restriction is imposed by the

laws thereof upon the practice of medicine by the graduates of medical schools in Ohio, shall be subject to the same restrictions or conditions in the practice of medicine in this state as are imposed upon such graduates of medical schools of Ohio by the laws of such state or foreign country; and a person violating this section shall not be entitled to any compensation for services rendered. (4403; 82 v. 218.)

SEC. 135. **[Penalty prescribed for selling and using fraudulent medical diplomas.]** Whoever shall make, issue, or publish, for purpose of sale, barter, or gift, any certificate, diploma, or other writing, or document falsely representing the holder or receiver thereof to be a graduate of any medical school, or college, or of any educational institution of medicine whatsoever, and entitled to the powers, privileges or degrees thereby pretended to be conferred; or whoever shall sell, or otherwise dispose of, or offer to do so, any such diploma, certificate, writing or document containing the false representation aforesaid; or whoever shall use his name, or permit the same to be used, as a subscriber for any purpose or in any capacity to such false and fictitious diploma, certificate, writing or document, aforesaid, or whoever shall engage in the practice of medicine and surgery under and by virtue of such fraudulent diploma, certificate, writing or document aforesaid, upon conviction thereof, shall be subject to the penalty prescribed in section 4403*b*. (4403*a*; 78 v. 27.)

SEC. 136. **[Penalty for issuing such diploma for sale.]** Whoever shall make, issue, or publish, or cause to be made, issued, or published, for the purpose of sale, barter, or gift, any diploma, certificate, or writing representing the holder thereof to be a graduate of any medical school, or college, or of any educational institutional of medicine whatsoever, unless such holder shall have, in fact, attended a complete course of instruction in such school, college, or institution for medical teaching, which course shall be equal to the average course of instruction in other schools, colleges or institutions where the various branches of medicine are taught as a science, in good standing in the state of Ohio, upon conviction thereof shall be fined in any sum not exceeding one thousand dollars, nor less than one hundred dollars, or imprisoned in the penitentiary not more than three years, nor less than one year, or both, at the discretion of the court. (4403*b*; 78 v. 28.)

(When a statute of the State imposed a penalty upon any person who should practice physic, unless he had a prescribed qualification, it was held that a patent from the United States, securing the exclusive right to manufacture and use a certain medicine, did not authorize the administration of such medicine by the pateatee, in the character of a practicing physician, unless he had the qualification prescribed by the statute: Jordan *v.* Overseers of Dayton, 4 O., 294; and while the act of February 26, 1824 (3 Chase 1966), which deprived persons who were not members of a medical society of the aid of the law to collect for their services as physicians, was in force, services rendered in that capacity by persons not such members could not be recovered for, and the repeal of that act did not give a right of action therefor, a void contract never being revived: Nichols *v.* Poulson, 6 O., 305.)

An empiric, under the act of May 5, 1868 (65 v. 146), is liable to a civil action for malpractice, notwithstanding it is made a penal offense for such person to practice medicine in any of its departments: Musser *v.* Chase, 29 O. S. 577.

SEC. 137. **[Practicing medicine or surgery without qualification.]** Whoever prescribes, or practices, or attempts to practice medicine in any of its departments, or performs, or attempts to perform a surgical opera-

tion, without having attended two full courses of instruction, and graduated at a school of medicine, either in this or a foreign country, or who can not produce a certificate of qualification from a state or county medical society, except that when a person has been continuously engaged in the practice of medicine for a period of ten years or more, he shall be considered to have complied with the provisions of this chapter, and when a person has been in continuous practice of medicine for five years or more, he shall be allowed two years in which to comply therewith, shall, for the first offense, be fined not more than one hundred nor less than fifty dollars, and for any subsequent offense be imprisoned for the term of thirty days. (6992; 78 v. 183.)

Under the act of May 5, 1868 (65 v. 146), to protect the citizens of Ohio from empiricism, it is not unlawful for a person of good moral character to practice medicine and surgery, for reward or compensation, who has been engaged in the continuous practice of medicine for ten years or more: Wert *v.* Clutter, 37 O. S. 347. White, J. and Okey, C. J., dissented.

Such ten years of continuous practice may embrace time since, as well as before, the taking effect of said act: *Ib.*

It is immaterial whether the services rendered during such period of practice were gratuitous or for compensation: *Ib.*

SEC. 138. **[Administering medicine when intoxicated.]** Whoever, while in a state of intoxication, prescribes or administers any poison, drug, or medicine to another, which endangers the life of such other person, shall be fined not exceeding one hundred dollars, and imprisoned not more than twenty days. (6813; 32 v. 20.)

SEC. 139. **[Administering secret medicine.]** Whoever prescribes any drug or medicine to another, the true nature and composition of which he does not, if inquired of, truly make known, but avows the same a secret medicine or composition, and thereby endanger the life of such other person, shall be fined not exceeding one hundred dollars, and imprisoned not more than twenty days. (6814; 32 v. 20.)

SEC. 140. **[Attempting to procure abortion; punishment if the woman dies or miscarries.]** Whoever, with intent to procure the miscarriage of any woman, prescribes or administers to her any medicine, drug, or substance whatever, or, with like intent, uses any instrument or means whatever, unless such miscarriage is necessary to preserve her life, or is advised by two physicians to be necessary for that purpose, shall, if the woman either miscarries or dies in consequence thereof, be imprisoned in the penitentiary not more than seven years nor less than one year. (6815; 32 v. 20.)

The offense is complete if the medicine, drug, or substance be administered, or instruments used, with the intent prescribed, at any time during the period of gestation: Wilson *v.* State, 2 O. S. 319.

SEC. 141. **[Administering anæsthetics without the presence of a witness.]** Whoever uses upon another an anæsthetic, unless at its administration, and during the whole time the person is wholly or partly under the direct influence of it, there is present a third person competent to be a witness, shall be fined not more than twenty-five nor less than five dollars. (6990; 73 v. 154.)

DENTIST.

SEC. 142. **[Who may practice dentistry.]** No person shall practice dentistry for compensation, without having received a diploma from the faculty of a dental college of either this or a foreign country, or a certificate of qualification issued by the state dental society, or by any local society auxiliary thereto; but when a person has been continuously engaged in the practice of dentistry for a period of five years or more, he shall be considered to have complied with the provisions of this chapter. (4404; 70 v. 58.)

SEC. 143. **[Practicing dentistry without qualification.]** Whoever practices dentistry for compensation, without having received a diploma from the faculty of a dental college of this or a foreign country, or a certificate of qualification by the state dental society, or by a local society auxiliary thereto, shall be fined not more than two hundred nor less than fifty dollars; but this section shall not apply to physicians and surgeons. (6991; 65 v. 165.)

DIVISION VII.

Relating to Oils and Explosives.

PETROLEUM OILS.

SEC. 144. **[Manner of inspection of petroleum oils.]** All mineral or petroleum oil, or any oil fluid or substance which is a product of petroleum, or into which petroleum or any product of petroleum enters or is found as a constituent element, whether manufactured within this state or not, shall be inspected, as provided in this chapter, before being offered for sale or sold for consumption for illuminating purposes within the state, and such inspection shall be conducted as herein provided, in the following manner:

The test shall be made in a test cup of mettle or glass, cylindrical in shape, two and a quarter inches in diameter, and four inches deep, both measurements being made inside the cup, and this cup shall be filled to within one quarter of an inch of the brim with the oil or other substance to be tested, taken at the ordinary temperature; the cup shall be placed in a water-bath sufficiently large to leave a clear space of one inch under the cup, and three-eighths of an inch around it, and in such manner as to project about one-quarter of an inch above the water-bath; the space between the cups and the water-bath shall be nearly filled with cold water taken at the ordinary temperature, and the cup being placed in the water-bath, the latter shall be heated by an alcohol lamp, with its flame so graduated that the rise in temperature from sixty degrees Fahrenheit to the

highest heat test temperature shall not be less than two degrees per minute, and shall be as near two degrees per minute as is practicable, and shall in no case exceed four degrees per minute. A Fahrenheit thermometer shall be suspended in such a manner that the upper surface of its bulb shall be as near as practicable one quarter of an inch below the surface of the oil undergoing test; as soon as the temperature reaches the point of ninety-eight degrees Fahrenheit, the lamp shall be removed from under the water-bath, and the oil shall then be allowed to rise to the temperature of one hundred degrees Fahrenheit, by the residual heat of water, and at that point the first test for flash shall be made as follows: a taper, hereinafter described, shall be lighted and the surface of the oil shall be touched with the flame of the taper, and it is lawful to apply this flame, either to the center of the oil surface or to any or all parts of it, but the taper itself shall not be plunged into the oil, and if no flash takes place upon the first contact of the flame with the oil, the taper shall not be held in longer contact, but shall be immediately withdrawn; if no flash takes place at the temperature of one hundred degrees Fahrenheit, the lamp shall be replaced under the water-bath, and the temperature raised to one hundred and three degrees, when the lamp shall be again withdrawn, and the oil allowed to rise to one hundred and five degrees by the residual heat of the water, when the test shall be made at one hundred and five degrees by again applying the flame of the taper as hereinbefore specified; if no flash occurs, the test shall be repeated as often as the oil gains five degrees in temperature, three degrees with the lamp under the water-bath, and two degrees with the lamp removed; these tests shall be repeated until a flash is obtained; the inspector shall further test the oil by applying the taper at every two degrees rise, without removing the lamp or stirring, but if a flash is obtained by this means by a less rise in temperature than five degrees herein required, he shall at once remove the lamp, stir the oil, and immediately apply the flame; the taper used for testing may be made of any wood giving a clear flame, and it shall be made as slender as possible and with a tip not more than one-sixteenth of an inch in thickness; no taper or match with sulphur upon it shall be used, unless the sulphur is removed before lighting; when the taper is lighted it shall be applied to the oil immediately, that is to say, before an ash or coal has had time to form on the end of the taper beyond the flame, and in applying the taper the flame shall be made to touch the oil, but the taper itself shall not be brought in contact with the oil, and if the taper is so brought in contact with the oil, but not held there longer than for the space of one second, and the oil flashes, the test shall not thereby be vitiated, but the inspector shall immediately remove the lamp, and again test the oil by the flame without allowing the body of the taper to touch the oil; no oil or other substance, which, by the test herein described, flashes at any temperature below one hundred and twenty degrees Fahrenheit, shall be allowed to be sold, or offered for sale, or consumed for illuminating purposes in this state; but it shall be deemed a sufficient compliance with the provisions of this section to test the oil or oils herein described by an apparatus known as the "Foster cup" or Foster's automatic oil tester; and it is lawful to sell, for illuminating purposes, any oil or oils herein described, to be consumed within the state, which bear a flash test of one hundred and twenty degrees Fahrenheit, as shown by said apparatus, and the state inspector is hereby authorized to substitute the test by the Foster cup, or Foster's automatic oil tester, instead of the test by the open cup, as

herein provided, if, in his judgment, by such change a greater uniformity of test throughout the state will be secured. (394; 81 v. 140.)

SEC. 145. **[State inspector of oils; appointment and term of; empowered to appoint deputies; duties of; rejected oil.]** Immediately upon the taking effect of this act, the governor shall appoint, by and with the advice and consent of the senate, a skilled and suitable person, who is not interested in manufacturing, dealing, or reducing any illuminating oils manufactured from petroleum, as state inspector of oils, whose term of office is for two years, to commence from the fifteenth day of May, 1884, and continue until his successor is appointed and qualified; and in case of a vacancy occurring by death, resignation, or otherwise, the governor shall fill the same as provided in section twelve of the revised statutes of Ohio; provided that the present state supervisor of oils shall continue in office and perform the duties of state supervisor of oils, under this act until May 15, 1884. The inspector, when so appointed and qualified, is empowered to appoint a suitable number of deputies who are not interested in manufacturing, dealing, or vending any illuminating oils manufactured from petroleum, who are empowered to perform the duties of inspection, and are liable to the same penalties as the inspector; and the inspector may remove any of the deputies for reasonable cause, and appoint others in their place; provided, that all deputy supervisors of oils now in office shall remain and perform the duties thereof, under this act, until May 15, 1884. The inspector and his deputies shall provide themselves, at their own expense, with the necessary instruments and apparatus, and stencils, brands and stamps, for testing and marking the quality of illuminating oils, and when called upon for that purpose to promptly inspect all oils herein mentioned, and to reject for illuminating purposes, for consumption in this state, all oils which, by being adulterated with naphtha, benzine, parafine, or other light oils or other substance, or for any other reason, will not stand and be equal to the test herein prescribed. The inspector shall prepare the forms of all stencils, brands, and stamps provided for in this chapter, and also such general regulations and rules for inspection, not inconsistent with the terms and provisions of this chapter, and such rules and regulations shall be binding on all deputy inspectors in the state. The inspector and his deputies are required to test the quality of all mineral or petroleum oils, or any oil, fluid or substance which is a product of petroleum or into which petroleum or any product of petroleum enters, or is found as a constituent element, which is offered or intended to be offered for sale for illuminating purposes in this state, and if upon such testing or examination the same meets the requirement herein specified, the inspector or his deputies shall affix by stencil or brand, on any package, cask or barrel containing the same, and by a stamp subscribed with his official signature, the word "approved," with the date of such inspection; and it will then be lawful for any manufacturer, vendor, or dealer, to sell the same, to be consumed within the state as an illuminator; but if the oil so tested does not meet such requirements, he shall mark by stencil or brand, in plain letters, on any package or barrel containing the same, and by a stamp subscribed with his official signature, the words "rejected for illuminating purposes," giving the date of such inspection; and it shall be unlawful for the owner thereof to sell oil so branded as rejected, to be consumed within the state for illuminating purposes; and if any person sells or offers for sale such rejected oil, he shall be deemed guilty of a misdemeanor, and shall be subject to a penalty in any sum not less than one thousand dollars, or be imprisoned in the county jail not exceeding twenty days, or both. (395; 81 v. 142.)

SEC. 146. **[Oath and bond of inspector and deputy; fees of; record of inspection to be kept; deputies to make monthly returns to inspector.]** Whoever is appointed state inspector or deputy inspector shall, before he enters upon the discharge of the duties of his office, take an oath of office, and file the same in the office of the secretary of state.

The inspector must execute a bond to the state in the sum of twenty thousand dollars, with sureties to be approved by the secretary of state, conditioned for the faithful performance of the duties imposed upon him by law, which bond shall be for the use of all persons in any way aggrieved or injured by the acts or neglect of the inspector, and the same shall be filed with the secretary of state.

The deputy inspectors must each execute a bond to the state in the sum of five thousand dollars, with sureties to be approved by the judge of probate of the county where the deputy is located, and file the same with the clerk of the court of common pleas in the county where he resides. The inspector or deputy inspector is entitled to demand and receive from the owner or party calling on him, or for whom he performs the inspection, the sum of forty cents for a single barrel, package, or cask; twenty-five cents, each, when the lot does not exceed ten in number; fifteen cents, each, when the lot does not exceed twenty in number; ten cents, each, when the lot does not exceed fifty in number; and five cents, each, of all lots exceeding fifty barrels; and all fees so accruing shall be a lien on the oil so inspected. Every inspector or deputy inspector shall keep a true and accurate record of all oils so inspected and branded by him, which record shall state the date of the inspection, number of barrels, and the name of the person for whom inspected, and such record shall be open to the examination of any and all persons interested; and every deputy inspector shall, on the first Monday of each month, make a true and accurate return to the state inspector of all such inspections for the preceding month, giving the quantity inspected, the date of the inspection, and the name of the person for whom it is inspected; on the second Monday of November of each year, the state inspector shall make and deliver to the governor a report of the inspections, by himself and deputies during the preceding calendar year. (396; 81 v. 143.)

SEC. 147. **[Penalty for sale of uninspected oils; for using false brands, etc.]** If any person for or as agent for any other person shall sell, or attempt to sell, to any person in this state any such oils to be consumed within this state for illuminating purposes, whether manufactured in this state or not, before having the same inspected as provided in this chapter, he shall be fined in any sum not less than one hundred and not exceeding three hundred dollars; and if any person shall falsely brand any package, cask or barrel, as provided in section 394, or shall refill and use any package, cask or barrel having the inspector's brand thereon, without having the oil therein inspected, he shall be fined in any sum not exceeding five hundred dollars nor less than one hundred dollars, or be imprisoned in the county jail not exceeding six months, or both, at the discretion of the court. (397; 81 v. 143.)

SEC. 148. **[For using uninspected oil.]** Whoever knowingly uses for illuminating purposes, any oil or product of petroleum, before the same has been inspected and branded by the state inspector, or his deputy, as hereinbefore provided, shall be fined in any sum not exceeding one hundred dollars, nor less than twenty dollars. (398; 81 v. 144.)

SEC. 149. **[For selling casks without defacing brand.]** Any per-

son selling or dealing in illuminating oils produced from petroleum, who sells or disposes of any empty barrel, cask or package which has been branded by the inspector, or a deputy inspector, before thoroughly canceling, removing and effacing the inspector's brand on the same, shall be fined fifty dollars ($50) for each barrel, cask or package thus sold or disposed of. (399; 81 v. 144.)

SEC. 150. [**Oils shall not be adulterated.**] No person may adulterate with any substance whatever, for the purpose of sale, or for illuminating purposes, any oil obtained from petroleum, or obtained from coal, in such manner as to render it dangerous to use; nor shall any person knowingly sell or offer for sale any oil obtained from petroleum, or from coal, or from the products of either, for illuminating purposes within this state, which by reason of being adulterated, or for any reason whatever, will flash at a temperature less than one hundred and twenty degrees of Fahrenheit's thermometer and the test herein prescribed; but oils not bearing the test herein prescribed, may be used in street lamps for lighting streets or public wharves, ways or alleys, and also the gas or vapor from such oils may be used for illuminating purposes, when the oils from which said gas or vapor is generated, are contained in reservoirs under ground, outside the building illuminated or lighted by the gas or vapor, and a person violating any of the provisions of this section shall be punished by imprisonment in any county jail not more than one year, or by a fine not exceeding five hundred dollars ($500), or by such fine and imprisonment at the discretion of the court. (400; 81 v. 144.)

SEC. 151. [**Responsibility of dealers in oils.**] Whoever shall sell or keep for sale, to be consumed in the state, any illuminating oil manufactured from petroleum or its products, and not inspected as provided in this chapter, shall be responsible to the party or parties injured for any violation of the provisions of this chapter by himself or by any clerk or person in his employ, in the sale of such oil. (401; 81 v. 144.)

SEC. 152. [**Duties of inspector and deputies as to violations of law.**] The inspector, or any deputy inspector, who shall know of the violation of any of the provisions of this chapter, shall enter complaint before any court of competent jurisdiction, against any person so offending; and in case any inspector, or deputy inspector, having knowledge of the violation of the provisions of this chapter, shall neglect to enter complaint as required by and provided for in this chapter, he shall be fined in any sum not exceeding five hundred dollars, and be removed from his position as such inspector or deputy inspector. (402; 81 v. 145.)

SEC. 153. [**Inspector or deputy not to traffic in oils; disputes: to whom submitted.**] No inspector or deputy inspector shall, while in office, traffic directly or indirectly, in any article in which petroleum or other product thereof is a constituent part, which he is appointed to inspect, and in case of any violations of the provisions of this section by any inspector, or deputy inspector, he shall be fined in any sum not exceeding five hundred dollars, and be removed from his position as such inspector or deputy inspector. All questions of dispute arising between the inspectors and manufacturers or dealers, shall be submitted to the professor of chemistry in the Ohio state university at Columbus, for consideration, and his decision shall be final. (403; 81 v. 145.)

SEC. 154. [**Liability for damages.**] Whoever shall knowingly sell or cause to be sold, any oil mentioned in this chapter, for illuminating purposes, which is below one hundred and twenty degrees Fahrenheit,

when tested as provided in section 394, shall be liable to any person purchasing any of such oil, or to any person injured thereby, for all damages resulting from any explosion thereof, and it shall be no defense that the inspector's brand was upon the cask, or package or barrel from which the oil was taken. (404; 81 v. 145)

SEC. 155. **[Adulterating coal oil.]** Whoever adulterates, with any substance whatever, forthe purpose of sale, or for use for illuminating purposes, any oil obtained from petroleum or coal, in such manner as to render it dangerous to use, or knowingly sells or offers for sale, or knowingly uses any oil obtained from petroleum or coal, or the products of either, for illuminating purposes within this state, which, by reason of being adulterated, or for any reason whatever, will flash at a temperature less than one hundred and twenty degrees of Fahrenheit's thermometer, under the test prescribed law, shall be imprisoned not more than one year, or fined not more than five hundred dollars, or both; but the provisions of this section do not extend to oils used in street lamps for lighting streets, public wharves, ways, or alleys, nor to the use of the gas or vapor from such oils, when the oil from which such gas or vapor is generated is contained in reservoirs under ground, outside the building lighted or illuminated by such gas or vapor. (6954; 75 v. 564.)

DYNAMITE.

SEC. 156. **[Manufacture, storing and transporting of nitro-glycerine.]** Whoever manufactures the substance or material generally known as and called nitro-glycerine, or any compound thereof, within one hundred and sixty rods of any occupied dwelling or public building, or stores the same, in any quantity exceeding one hundred pounds, within the limits of any municipal corporation, or within one hundred and sixty rods of any occupied dwelling or public building, or transports or carries the same in any package not having written or printed, upon two sides thereof, in plain and distinct letters, the words "Nitro-glycerine—dangerous," or in any vehicle or watercraft upon which any passenger is at the same time being conveyed, or in any vehicle upon the sides and ends of which there shall not have been printed, in plain and distinct letters, large enough to occupy a space two inches wide by eighteen inches long, the words "Nitro-glycerine—dangerous," shall be fined not more than one thousand dollars, or imprisoned not more than three months, or both. (6953; 68 v. 105.)

SEC. 157. **[Firing cannon or exploding gunpowder on public street.]** Whoever, except in case of invasion by a foreign enemy, or to suppress insurrection or a mob, or for the purpose of raising the body of a person drowned, or for the purpose of blasting or removing rock, fires any cannon, or explodes at any time more than four ounces of gunpowder, upon any public street or highway, or nearer than ten rods to the same, shall be fined not more than fifty nor less than five dollars. (7004; 43 v. 17.)

SEC. 158. **[Sale or use of dynamite, etc.]** It shall be unlawful for any person, firm or corporation to manufacture, sell or use the substance or material known as and called dynamite or other nitro-explosive compound, within the state of Ohio, contrary to the provisions of this act. (8035-206; 82 v. 182.)

SEC. 159. **[Application for license to manufacture the same.]** Whoever desires to engage in the manufacture of dynamite or any com-

pound thereof, within the state of Ohio, shall first make application in writing to the common council of the city or incorporated village in which the same is to be located, or to the board of township trustees, if it is to be located without the corporate limits of a city or village, setting forth the fact of his or their intention to engage in the manufacture of dynamite or other nitro-explosive compound, the name in full of the person or persons comprising such firm, or, if a corporation, the names of the incorporators, an accurate description of the premises upon which it is to be located, and how far separated from other buildings, which statement shall be made under oath, signed by all the parties, or if a corporation, by the president and secretary thereof. (8035-207; 82 v. 182.)

SEC. 160. [**License: how granted.**] The common council of any city or incorporated village within this state, or the trustees of any township, may, by a majority vote of all the members elected thereto, at a regular meeting, upon application duly made under the provisions of this act, grant a certificate of license to any person, firm or corporation, authorizing the same to manufacture the substance or material known as dynamite or other nitro-explosive compound, in accordance with the conditions and restrictions hereinafter mentioned. (8035-208; 82 v. 182.)

SEC. 161. [**Penalties in regard to the manufacture, storage and transportation of dynamite.**] It shall be unlawful for any person, firm or corporation to engage in the manufacture of dynamite or other nitro-explosive compound, within this state, without having first procured the certificate of license provided for in the preceding section, or within one hundred and sixty rods of any occupied dwelling or public building, except that the trustees of any township may, if in their judgment they deem it expedient and proper, authorize the location and establishment of such manufactory at a less distance than one hundred and sixty rods from any occupied dwelling, and it shall also be unlawful for any person, firm or corporation, to store dynamite or other nitro-explosive compound, in any quantity exceeding one hundred pounds, within the limits of any municipal corporation, or within forty rods of any occupied dwelling or public building, or to transport or carry the same in any package not having written or printed upon two sides thereof in plain and distinct letters the words "Dynamite—dangerous," or in any railroad car or water craft without having the packages containing the same marked as above; and any one convicted of the violation of the provisions of this section, shall be fined in any sum not less than three hundred nor more than five hundred dollars, or imprisoned in the county jail not less than three months nor more than one year, or both, at the discretion of the court. (8035-209; 82 v. 182.)

SEC. 162. [**Sales to minors or without labels; sales registered; penalties for violations of this act.**] It shall be unlawful for any person, firm or corporation to sell or give away any quantity of the substance known as dynamite or other nitro-explosive compound to any minor, or to sell or give away the same to any person without marking the word "dynamite" upon the label, wrapper, or vessel containing it, and shall also register in a book, to be by him kept for that purpose, the day and date upon which it is sold, or given away, the quantity thereof, the name, age, sex, color and place of residence of the person obtaining the same, the purpose for which it is required, and the name and place of abode of the person for whom the same is intended; and any person convicted of the violation of the provisions of this section, shall be fined in any sum not

less than one hundred dollars, or imprisoned in the county jail not less than three months, or both. (8035–210; 82 v. 183.)

SEC. 163. [**Unlawful use and possession of dynamite.**] Whoever carries concealed on or about his person any cartridge shell or bomb containing dynamite or other nitro-explosive compound, or has in his possession or under his control any dynamite or other nitro explosive compound, for any other than legitimate and lawful use or uses, or attempts to use the same in any manner to the injury of persons or property, or shall place or deposit the same upon or about the premises of another, without the consent of such person, shall, upon conviction thereof, be imprisoned in the penitentiary not less than five years. (8035–211; 82 v. 183.)

FIREARMS.

SEC. 164. [**Penalty for selling or giving, etc., firearms to minors.**] Whoever sells, barters, or gives away to any minor under the age of fourteen years, any air-gun, musket, rifle-gun, shot-gun, revolver, pistol or other fire-arm of any kind or description whatever, or ammunition for the same, or whoever being the owner, or having charge or control of any such air-gun, musket, rifle-gun, shot-gun, revolver, pistol, or other fire-arm knowingly permits the same to be used by such minor, shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be fined in any sum not exceeding one hundred dollars, or be imprisoned in jail not exceeding thirty days, or both. (6986*a*; 77 v. 79.)

SEC. 165. [**Unlawful to sell toy pistols to minors under fourteen years; penalty.**] It shall be unlawful for any firm, company or person in the state of Ohio, to sell or exhibit for sale any pistol, manufactured out of any metallic or hard substance, commonly known as the "toy pistol," to a minor under the age of fourteen years; any firm, company or person violating the provisions of this act, shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be fined not less than ten nor more than fifty dollars, or be imprisoned not less than ten days nor more than twenty days, or both, and shall be liable to a civil action in damages to any person injured by such sale. (6986*b*; 80 v. 222.)

SEC. 166. [**Carrying concealed weapons.**] Whoever carries any pistol, bowie-knife, dirk, or other dangerous weapon, concealed on or about his person, shall be fined not more than two hundred dollars, or imprisoned not more than thirty days; and, for a second offense, fined not more than five hundred dollars, or imprisoned not more than three months, or both. (6892; 56 v. 56.)

SEC. 167. [**Pointing fire arms at, and discharging the same, and injuring thereby.**] Whoever intentionally, and without malice, points or aims any firearm at or toward any person, or discharges any firearm so pointed or aimed, or maims or injures any person by the discharge of any firearm so pointed or aimed, shall be fined not more than one hundred dollars, or imprisoned not more than one year or both. This section shall not extend to any case when firearms are used in self-defense, or in the discharge of official duty, or in case of justifiable homicide. (6822; 72 v. 44.)

(This section was not intended to cover a case of homicide, but one where the maiming or injury does not produce death: Williamson v. State, 2 c. c., 292.)

DIVISION VIII.

Relating to Mines and Miners.

SEC. 168. [**Their powers and duties.**] The chief inspector and district inspectors shall give their whole time and attention to the duties of their offices, respectively; it shall be the duty of the district inspectors to examine all the mines in their respective districts as often as possible, to see that all the provisions and requirements of this chapter are strictly observed and carried out; they shall particularly examine the works and machinery belonging to any mine, examine into the state and condition of the mines as to ventilation, circulation and condition of air, drainage and general security; they shall make a record of all examinations of mines in their respective districts, showing the date when made, the condition in which the mines are found, the extent to which the laws relating to mines and mining are observed or violated, the progress made in the improvement and security of life and health sought to be secured by the provisions of this chapter, number of accidents, injuries received, or deaths in or about the mines, the number of mines in their respective districts, the number of persons employed in or about each mine, together with all such other facts and information of public interest concerning the condition of mines, development and progress of mining in their respective districts as they may think useful and proper, which record shall, on or before the first Monday of every month, be filed in the office of the chief inspector, to be by him recorded, and so much thereof as may be of public interest, to be included in his annual report; in case of any controversy or disagreement between a district inspector and the owner and [or?] operator of any mine, or the persons working therein, or in case of conditions of emergencies requiring counsel, the district inspector may call on the chief inspector for such assistance and council as may be necessary; should the district inspector find any of the provisions of this chapter violated, or not complied with, by any owner, lessee, or agent in charge of any mine, he shall immediately notify such owner, lessee, or agent in charge, of such neglect or violation, and unless the same is, within a reasonable time, rectified, and the provisions of this chapter fully complied with, he shall institute a prosecution under the provisions of section 6871 of the Revised Statutes. The inspectors shall exercise a sound discretion in the enforcement of the provisions of this act, and if in any respect (which is not provided against by, or may result from a rigid enforcement of any express provisions of this chapter), the inspector find any matter, thing or practice in or connected with any such mine, to be dangerous or defective, so as in his opinion to threaten or tend to the bodily injury of any person, the inspector may give notice in writing thereof to the owner, agent

or manager of the mine, and shall state in such notice the particulars in which he considers such mine, or any part thereof, or any matter, thing of [or?] practice to be dangerous or defective, and require the same to be remedied. For the purpose of making the inspection and examinations provided for in this section, the chief inspector and the district inspectors shall have the right to enter any mine at all reasonable times, by night or by day, but in such manner as shall not unnecessarily obstruct the working of the mine; and the owner or agent of such mine is hereby required to furnish the means necessary for such entry and inspection; the inspection and examination herein provided for shall extend to fire-clay, iron ore, and other mines, as well as coal mines. (292; 85 v. 106.)

Sec. 169. [**Outlets required.**] It is unlawful for the owner or agent of any coal mine, worked by shaft, to employ or permit any person to work therein, unless there are, to every seam of coal worked in each mine, at least two separate outlets, separated by natural strata of not less than one hundred feet in breadth, by which shafts or outlets distinct means of ingress and egress are always available to the persons employed in the mine; but it is not necessary for the two outlets to belong to the same mine, if the persons employed therein have safe, ready and available means of ingress and egress by not less than two openings. This section shall not apply to opening a new mine while being worked for the purpose of making communication between said two outlets, so long as not more than twenty persons are employed at any one time in such mine, neither shall it apply to any mine, or part of a mine in which the second outlet has been rendered unavailable by reason of the final robbing of pillars previous to abandonment, so long as not more than twenty persons are employed therein at any one time. The cage or cages, and other means of egress shall at all times be available for the persons employed, where there is no second outlet. The escapement shafts shall be fitted with safe and available appliances by which the persons employed in the mine may readily escape in case an accident occurs deranging the hoisting machinery at the main outlets, and such means or appliances for escape shall always be kept in a safe condition; and in no case shall an air shaft, with a ventilating furnace at the bottom, be construed to be an escapement shaft, within the meaning of this section. To all other coal mines, whether slopes or drifts, two such openings or outlets must be provided within twelve months after shipments of coal have commenced from such mine; and in case such outlets are not provided as herein stipulated, it shall not be lawful for the agent or owner of such slope or drift to permit more than ten persons to work therein at any one time. In case a coal mine has but one shaft, slope, or drift, for the ingress or egress of the men working therein, and the owner thereof does not own suitable surface ground for another opening, he may select and appropriate any adjoining land for that purpose, and may make an additional shaft or outlet under, through or upon any intervening land, or landing adjoining, and shall be governed in his proceeding in appropriating such land by the provisions of law in force, providing for the appropriation of private property by corporations, and such appropriation may be made, whether he is a corporator or not; but no land shall be appropriated under the provisions of this chapter until the court is satisfied that suitable premises can not be obtained upon reasonable terms. (297; 85 v. 185.)

Sec. 170. [**Ventilation.**] The owner or agent of every coal mine, whether shaft, slope or drift, shall provide and maintain for every such mine, an amount of ventilation of not less than 100 cubic feet, per minute,

per person employed in such mine, which shall be circulated and distributed throughout the mine in such a manner as to dilute, render harmless, and expel the poisonous and noxious gases from each and every working-place in the mine, and no working-place shall be driven more than sixty feet in advance of a break-through, or air-way; and all break-throughs, or air-ways, except those last made near the working-faces of the mine shall be closed up and made air-tight, by brattice, trap doors, or otherwise, so that the currents of air in circulation in the mine may sweep to the interior of the mine where the persons employed in such mine are at work, and all mines governed by the statute shall be provided with artificial means of producing ventilation, such as forcing, or suction fans, exhaust steam, furnaces or other contrivances, of such capacity and power as to produce and maintain an abundant supply of air, and all mines generating fire-damp shall be kept free from standing gas, and every working-place shall be carefully examined every morning with a safety lamp by a competent person or persons, before any of the workmen are allowed to enter the mine. All underground entrances to any places not in actual course of working or extension, shall be properly fenced across the whole width of such entrances so as to prevent persons from inadvertently entering the same. (298; 83 v. 182.)

SEC. 171. **[Safety apparatus and precautions; boilers.]** The owner or agent of every coal mine operated by shaft, in all cases where the human voice can not be distinctly heard, shall forthwith provide and maintain a metal tube from the top to the bottom of such shaft suitably calculated for the free passage of sound therein, so that conversation may be held between persons at the bottom and top of the shaft; there shall also be provided an approved safety catch, and a sufficient cover overhead, on all carriages used for lowering and hoisting persons, and in the top of every shaft an approved safety gate, and an adequate brake shall be attached to every drum or machine used for lowering or raising persons in all shafts or slopes; and there shall also be provided in every shaft a traveling or passage way from one side of a shaft bottom to the other, so that persons working therein may not have to pass under descending cages; and all slopes or engine-planes, used as traveling ways by persons in any mine, shall be made of sufficient width to permit persons to pass moving cars with safety; but if found impracticable to make any slope or engine-plane of sufficient width, then safety-holes of ample dimensions, and not more than sixty feet apart, shall be made on one side of said slope or engine-plane. Such safety-holes shall always be kept free from obstructions, and the roof and sides shall be made secure. The boilers used for generating steam, and the buildings containing the boilers shall not be nearer than sixty feet to any shaft or slope, or to any building or inflammable structure connected with or surrounding said shaft or slope; but this section shall not apply to any shaft or slope, until the work of development and shipment of coal has commenced. (299; 83 v. 182.)

SEC. 172. **[Competent engineers must be employed, etc.]** No owner or agent of any coal mine operated by a shaft or slope shall place in charge of any engine used for lowering into or hoisting out of such mine persons employed therein any but experienced, competent, and sober engineers; and no engineer in charge of such engine shall allow any person, except such as may be deputed for that purpose by the owner or agent, to interfere with it or any part of the machinery, and no person shall interfere or in any way intimidate the engineer in the discharge of his duties; and in no case shall more than ten men ride on any cage or

car at one time, and no person shall ride upon a loaded cage or car in any shaft or slope. (300; 71 v. 21.)

SEC. 173. **[Lighting and ventilation; notice of accidents, duty of inspectors; penalty; other notices to be given chief inspector of mines.]** All safety lamps used for examining coal mines, or which are used in any coal mine, shall be the property of the owner of the min and shall be under the charge of the agent thereof, and in all mine whether they generate fire-damp or not, the doors use[d] in assisting or directing ventilation of the mine, shall be so hung or adjusted that they will shut of their own accord and can not stand open; and all main doors shall have an attendant, whose constant duty shall be to open them for transportation and travel, and prevent them from standing open longer than is necessary for persons or cars to pass through; and the mining boss shall keep a careful watch over the ventilating apparatus and the airway, and he shall measure the ventilation at least once a week, at the inlet and outlet, and also at or near the face of all the entries, and the measurements of air so made shall be noted on blanks, furnished by the chief inspector; and on the first day of each month the mining boss of each mine shall sign one of such blanks, properly filled with the sai actual measurements, and forward the same to the chief inspector, and any mining boss making false returns of such air measurements shall be deemed guilty of an offense against this section. Every person having charge of any mine, whenever loss of life occurs by accident, connected with the working of such mine, or by explosion, shall give notice thereof forthwith, by mail or otherwise, to the inspector of mines, and to the coroner of the county in which such mine is situated, and the coroner shall hold an inquest upon the body of the person or persons whose death has been caused, and inquire carefully into the cause thereof, and shall return a copy of the finding and all the testimony to the chief inspector. The owner, agent, or manager of every mine shall, within twenty-four hours next after any accident or explosion, whereby loss of life or personal injury may have been occasioned, send notice in writing to the chief inspector, and shall specify in such notice the character and cause of the accident, and the name or names of persons killed and injured, with the extent and nature of the injuries sustained. When any personal injury, of which notice is required to be sent under this section, results in the death of the person injured, notice in writing shall be sent to the chief inspector within twenty-four hours after such death comes to the knowledge of the owner, agent or manager; and when loss of life occurs in any mine by explosion, or accident, the owner, agent, or manager of such mine shall notify the chief inspector, or the district inspector, forthwith, of the fact, and it shall be the duty of the chief inspector to go himself, or require one of the district inspectors to go, at once to the mine in which said death occurred, and inquire into the cause of the same, and to make a written report, fully setting forth the condition of the part of the mine where such death occurred, and the cause which led to the same; which report shall be filed by the chief inspector in his office as a matter or [of] record, and for future reference.

For any injury to persons or property, occasioned by any violation of this act, or any willful failure to comply with its provisions by any owner, agent or manager of any mine, a right of action shall accrue to the party injured, for any direct damage he may have sustained thereby; and, in any case of loss of life, by reason of such willful neglect or failure, aforesaid, a right of action shall accrue to the widow and lineal heirs of the

person whose life shall be lost, for like recovery of damages for the injury they shall have sustained.

The owner, agent, or manager of any mine shall also give notice to the chief inspector of mines in any or all of the following cases:

1. Where any change occurs in the name of any mine, or in the name of any owner, agent, or manager of any mine, or in the officers of any incorporated company which owns or operates a mine.

2. Where any working is commenced for the purpose of opening a new shaft, slope or mine, to which this act applies.

3. Where any mine is abandoned or the working thereof discontinued.

4. Where the working of any mine is re-commenced after any abandonment or discontinuance for a period exceeding three months.

5. Where the pillars of a mine are about to be removed or robbed.

6. Where a squeeze or crush, or any other cause or change may seem to affect the safety of persons employed in any mine, or where fire occurs, or a dangerous body of gas is found in any mine. (301; 85 v. 185.)

Sec. 174. **[Employment of minors.]** No boy under twelve years of age shall be allowed to work in any mine, nor any minor between the ages of twelve and sixteen years unless he can read and write; and in all cases of minors applying for work, the agent of such mine shall see that the provisions of this section are not violated; and the mine inspector may, where doubt exists as to the age of any minors found working in any mine, qualify the said minor or his parents as to his age. (302; 85 v. 325.)

Sec. 175. **[Action for non-compliance with statutes.]** In case any coal mine does not, in appliances for the safety of the persons working therein, conform to the provisions of this chapter, or the owner or agent disregards the requirements of this chapter, any court of competent jurisdiction may, on application of the inspector, by civil action in the name of the state, enjoin or restrain the owner or agent from working or operating such mine until it is made to conform to the provisions of this chapter; and such remedy shall be cumulative, and shall not take the place of or affect any other proceedings against such owner or agent authorized by law for the matter complained of in such action. (303; 85 v. 325.)

Sec. 176. **[Mines to which certain statutes do not apply.]** The provisions of this chapter shall not apply to or affect any coal mine in which not more than ten men are employed at the same time; but the inspector shall at all times have free ingress to such mines for the purpose of examination and inspection, and shall direct and enforce any regulations in accordance with the provisions of this chapter that he may deem necessary for the safety of the health and lives of the minors employed therein. (306; 85 v. 325.)

Sec. 177. **[Mines: penalty for injuring.]** Whoever knowingly violates any of the provisions of sections 297, 298, 299, 300, 301, 302, and 305, or does any act whereby the life or health of the persons, or the security of any mine and machinery are endangered, or any miner or other person, employed in any mine governed by the statute, who intentionally and willfully neglects or refuses to securely prop the roof of any working place under his control, or neglects or refuses to obey any order given by the superintendent of a mine, in relation to the security of the mine in the part thereof where he is at work, and for fifteen feet back from

the face of his working place, or any miner, workman or other person, who shall knowingly injure any water-gauge, barometer, air-course or brattice, or shall obstruct or throw open any air-ways, or shall handle or disturb any part of the machinery of the hoisting engine, or open a door of the mine and not have the same closed again, whereby danger is produced either to the mine or those that work therein, or who shall enter any part of the mine against caution, or who shall disobey any order given in pursuance of this act, or who shall do any willful act, whereby the lives and health of persons working in the mine, or the security of the mine, or the machinery thereof is endangered, or any person having charge of a mine, whenever loss of life occurs by accident connected with the working of such mine, or by explosion, who neglects or refuses to give notice thereof forthwith, by mail or otherwise, to the chief inspector of mines, and to the coroner of the county in which such mine is situate, or any such coroner who neglects or refuses to hold an inquest upon the body of the person whose death has been thus caused, and return a copy of his findings and all the testimony to the inspector, shall be fined not less than fifty dollars, or imprisoned in the county jail not more than thirty days, or both. The owner, agent, or operator of every coal mine shall keep a supply of timber constantly on hand, and shall deliver the same to the working place of the miner, and no miner shall be held responsible for accidents which may occur in mines where the provisions of this section have not been complied with by the owner, agent, or operator thereof. (6871; 86 v. 301.

DIVISION IX.

RELATING TO

Shops and Factories: Public Buildings.

INSPECTOR OF WORKSHOPS AND FACTORIES.

SEC. 178. [**Appointment of inspectors.**] The governor shall appoint one chief inspector, by and with the advice and consent of the senate, who, with the approval of the governor, shall appoint three district inspectors. The chief inspector and district inspectors shall be competent and practical mechanics. The chief inspector shall hold his office for a term of four years, and shall have his office in the state-house, where shall be kept the records of his office, and the district inspectors shall hold their office for the term of three years from the first day of May after their respective appointments, and until their successors are appointed and qualified; the first appointments hereunder shall be made within thirty days from the passage of this act; in case of the resignation, removal or death of the chief inspector, the vacancy shall be filled in the manner above provided for original appointments for the unexpired term only of the position so made vacant. (2573*a*, 2; 82 v. 178.)

SEC. 179. **[Duties of inspectors.]** The chief inspector and district inspectors shall give their whole time and attention to the duties of their offices respectively; it shall be their duty to visit all shops and factories in their respective districts as often as possible, to see that all the provisions and requirements of this act are strictly observed and carried out; they shall carefully inspect the sanitary condition of the same, [and it shall be their duty] to examine the system of sewerage in connection with said shops and factories, the situations and conditions of water closets or urinals in and about such shops and factories, and also the system of heating, lighting and ventilating all rooms in such shops and factories where persons are employed at daily labor; also as to the means of exit from all such places in case of fire or other disaster, and also all belting, shafting, gearing, elevators, drums and machinery of every kind and description in and about such shops and factories, and see that the same are not located so as to be dangerous to employes when engaged in their ordinary duties, and that the same, so far as practicable, are securely guarded, and that every vat, pan or structure filled with molten metal or hot liquid shall be surrounded with proper safeguards for preventing accident or injury to those employed at or near them; and that all such are in a proper sanitary condition, and are adequately provided with means of escape in case of fire or other disaster. (2573*a*, 3; 82 v. 178)

SEC. 180. **[Inspector to have free access to all shops and factories.]** Said inspector shall have entry into all such shops and factories, including all public institutions of the state which have shops and factories, or either, at any reasonable time, and it shall be unlawful for the proprietors, agents or servants in such factories or shops to prevent, at reasonable hours, his entry into such shops and factories for the purpose of such inspection. (2573*b*; 86 v. 178.)

SEC. 181. **[Notice of necessary alterations or additions; penalty for not making same.]** Said inspectors, if they find upon such inspection that the heating, lighting, ventilation or sanitary arrangement of any such shop or factory is such as to be injurious to the health of persons employed or residing therein, or that the means of egress in case of fire or other disaster is not sufficient, or that the belting, shafting, gearing, elevators, drums and machinery in such shops and factories are located so as to be dangerous to employes, and not sufficiently guarded, or that the vats, pans or structures filled with molten metal or hot liquid, are not surrounded with proper safeguards for preventing accident or injury to those employed at or near them, shall notify the owners, proprietors or agents of such shops or factories to make the alterations or additions necessary within thirty (30) days, and if such alterations or additions are not made within thirty (30) days from the date of such notice, or within such time as said alterations can be made with proper diligence upon the part of such proprietors and owners, said proprietors, owner or agent so notified shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall be fined not more than two hundred (200) and not less than ten (10) dollars, which fine shall be paid into the treasury of the county in which conviction is had. (2573*c*; 82 v. 178.)

SEC. 182. **[Public halls, etc., "shops and factories" defined.]** The term "shops and factories," as used in sections 2573*b* and 2573*c* of the Revised Statutes of Ohio, shall be held to include the following: Manufacturing, mechanical, electrical, mercantile, art and laundrying establishments, printing, telegraph and telephone offices, and hotels. And in case it is found on an inspection under section 2573*c* that the means of egress

in case of fire or other disaster is not sufficient in any shop or factory as defined herein, the owner or agent for the owner of such building may be required by the state inspector, upon the notice and under the penalties of said section 2573*c* to provide the necessary fire-escapes. (1891, March 2; 2573*d*; 88 v. 64)

SEC. 183. **[Forbidding employment of minors under fourteen years of age in manufactories or mines.]** No minor under the age of fourteen years shall be employed in any factory, workshop or establishment wherein the manufacture of any goods of any kind is carried on, or in any of the mines in this state; provided, that this act shall not apply to children more than twelve years of age laboring not more than eight hours per day during the time they are not required by law to attend school, in such manufacturing institutions and at such employment therein as the inspector of workshops and factories may find to be not detrimental to such child. (1891, April 25: 6986; 88 v. 396.)

SEC. 184. **Employment of minors under the age of eighteen in manufactories; notice; record.]** No minor under the age of eighteen years shall be employed in any of the places named for a longer period than ten hours a day, and in no case shall the hours of labor exceed sixty in one week; and every employer shall post in a conspicuous place in every room where such persons are employed a printed notice, stating the number of hours required of them in each day of the week; the form of such printed notice shall be furnished by the chief inspector of workshops and factories, and shall be approved by the attorney-general; and it shall also be the duty of every employer of minors to keep a record, which shall be open to the inspection of the chief inspector of workshops and factories and of his assistants, giving the name of each minor employed, his or her name, date and place of birth, and also present residence, of the parents or guardians. (6986*aa*; 84 v. 249.)

SEC. 185. **[Penalty for violations of this act.]** Any person or corporation who shall employ any person contrary to the provisions of this act, or who shall violate any of the provisions of this act, shall upon conviction thereof, be fined in any sum not less than fifty nor more than one hundred dollars, or imprisoned not less than thirty, nor more than ninety days. (6986*bb*; 82 v. 162.)

SEC. 186. **[Duty of inspector of shops; fines collected.]** It shall be the duty of the inspector of shops and factories to prosecute all violations of this act, when the same shall come to his knowledge, in any court of competent jurisdiction. All fines collected under this act shall inure to the benefit of the school fund of the district where the offense was committed. (6986*c*; 82 v. 162.)

SEC. 187. **[Preventing the employment of children in certain occupations.]** No child under the age of sixteen years, shall be employed by any person, firm, or corporation in this state, at employment whereby its life or limb is endangered, or its health is likely to be injured, or its morals may be depraved by such employment. (1890, April 8: 87 v. 161.)

SEC. 188. **[Penalty for violation.]** Any person, firm, or corporation in this state, who willfully causes or permits the life or limb of any child under the age of sixteen years to be endangered, or its health to be injured, or its morals to become depraved, from and while actually in their employ, or who willfully permits such child to be placed in such a position or to engage in such employment that its life or limb is in dan-

ger, or its health likely to be injured, or its morals likely to be impaired by such position or employment, shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be fined in any sum not less than ten (10) dollars nor more than fifty (50) dollars, or imprisonment not less than thirty nor more than ninety days for each and every offense. (1890, April 8: 87 v. 161.)

SEC. 189. **[Duty inspector workshops and factories.]** It shall be the duty of the state inspector of workshops and factories to enforce the provisions of this act. (1890, April 8: 87 v. 161.)

SEC. 190. **[Female employes; for preservation of health of.]** Every person or corporation employing female employes in any manufacturing, mechanical or mercantile establishment in this state, shall provide suitable seats for the use of the female employes, so employed, and shall permit the use of such by them when they are not necessarily engaged in the active duties for which they are employed, and shall permit the use of such seats at all times when such use would not actually and necessarily interfere with the proper discharge of the duties of such employes; and shall also provide, on the same floor or floors of the building wherein any female persons are employed, suitable and separate toilet and dressing-rooms and water-closets for the exclusive use of such female employes. The state inspector of factories and workshops is hereby charged with the duty of seeing that the provisions of this section are observed and enforced. (1891, March 6; 8035-235; 88 v. 87.)

SEC. 191. **[Penalty.]** Any person or corporation violating any of the provisions of this act shall be punished by a fine of not less than ten dollars nor more than twenty-five dollars for each offense. (8035-236; 82 v. 132.)

SEC. 192. **[Manufacturers to report certain accidents to chief inspector of workshops.]** It shall be the duty of all manufacturers of the state, to forward by mail to the chief inspector of workshops and factories, at Columbus, a report of each and every serious accident, resulting in bodily injury to any person, which may occur in their establishment, giving particulars of the same as fully as can be ascertained, upon blanks which shall be furnished by the chief inspector of workshops and factories. If death shall result to any employe from any such accident, said report shall contain the age, name, sex and employment of the deceased, whether married, the number of persons, if any, deprived of support in consequence thereof, and the cause of the accident, if known. If the accident has caused bodily injury of such a nature as to prevent the person injured from returning to his or her employment within six or more days after the occurrence of the accident, then the report shall contain the age, name, sex and employment of the disabled, the nature and extent of the injury received, how caused, if known, how long continuously disabled, loss of time and wages therefrom, and if possible the expense thereby incurred in full. (7458-1; 85 v. 99.)

SEC. 193. **[Penalty for failure to so report; the term "manufacturer" defined.]** That any manufacturer who shall fail to comply with the requirement of this act in each case of death by accident within seven days thereafter, and in each case of injury by accident within thirty days thereafter, shall be fined in any sum not less than ten dollars nor more than fifty dollars. The term manufacturer, as applied in section *one* [7458-1] and in section *two* [7458-1, 7458-2] of this act, shall be held to mean any person who, as owner, manager, lessee, assignee, receiver,

contractor, or who, as agent of any incorporated company makes or causes to be made any kind of goods or merchandise, or who owns, controls, or operates any street railway, laundrying establishment, or is engaged in the construction of buildings, bridges or structures, or in loading or unloading vessels, or cars, or moving heavy materials, or operating dangerous machinery or in the manufacture or use of explosives. (7458–2; 85 v. 99.)

SEC. 194. [**Blanks for reports to be furnished by chief inspector of workshops; proviso.**] It shall be the duty of the chief inspector of workshops and factories to supply all blanks necessary to make said reports as required in this act, and to prosecute all violations of this act when the same shall come to his knowledge; provided, that the furnishing of said blanks shall be a condition precedent to prosecution in any case. (7458–3; 85 v. 99.)

DANGEROUS BUILDINGS.

SEC. 195. [**To prevent the erection of dangerous buildings.**] It shall be unlawful for any person, society, firm, agent, representative of any private or corporate authority or society; or any committee, commission, or board acting under any authority whatsoever, to erect or cause to be erected, or for any architect, engineer, builder or other person to furnish any plan, description or specification for the purpose of erecting in the state of Ohio any structure, room or place where persons are invited, expected, or permitted to assemble; for the purpose of entertainment, judgment, amusement, instruction, betterment, treatment, or care; or to make any addition to or alteration therein, which shall in construction, arrangement, or means of egress be dangerous to the health or lives of persons so assembled. (7755–10; 86 v. 381.)

SEC. 196. [**Capacity of stairways, approaches, doorways, etc.; floors; roof; walls; piers, pillars, arches, etc.; fire-escapes; ventilating, lighting, and heating apparatus.**] In every such structure, room or place, capable of containing fifty or more persons, the stairways and approaches thereto and all doorways and escapes therefrom, in their aggregate width, shall be of sufficient capacity to allow any audience which can be accommodated therein to escape therefrom in four minutes, moving at a rate of two feet per second, and allowing four square feet of floor space to each person, then adding for hindrance two feet to the width of each opening, passage or stairway. The doors from the same shall open outward, but no such room, or place (unless the structure be fire-proof) which is over six feet from the surface of the lot shall have less than two doors, stairways or exits. The floors of such structure[s] and all hallways, stairways, corridors, balconies and galleries therein or thereto shall be capable of sustaining a live load of one hundred pounds per square foot, with a safety factor of five. All supports for floors or other parts of such structures shall be fully capable of sustaining the aggregate loads and pressures above provided for in addition to any rythmical or vibrating motion which may be caused in the use of such structure. The roof or covering of such building shall be capable of sustaining a live load of thirty pounds of vertical pressure and a horizontal wind pressure of forty pounds per square foot, with a safety factor of five. When walls supporting floors are of common brick work, the minimum of thickness and the maximum of height, supposing the length to equal the height, shall be,

where no openings occur, 9-inch wall, 10 feet, used inside only; 13-inch wall, 20 feet; 17-inch wall, 30 feet; 21-inch wall, 40 feet; 26-inch wall, 50 feet; 30-inch wall, 60 feet; but when thinner walls stand upon thicker walls the total height shall not exceed the one above given. Walls of hard brick, laid in cement, may be increased fifty per cent. above these dimensions. When walls between supports are of greater or less length than the height, the length may be increased two feet for each foot the height is reduced; or reduced one-half foot for each foot the height is increased, from the dimensions given in this section. When there are buttresses or pilasters extending to the foundations and projecting from the wall, the thickness of the wall may be reduced by one-half the depth of such projections, provided they occupy at least one-tenth of the surface of the wall, and the thickness of the intervening walls, considered separately, shall not be less than what has been given in this section; provided, however, that when any wall is strengthened by firm anchoring of girders, floors or roofs, such anchors not being more than twelve times the thickness of the wall from each other, either horizontally or vertically, the surface of such wall may be doubled. The thickness of level-bedded stone walls to be the same as brick. For rough stone not in courses, add twenty-five per cent. to the thickness for brick. Where openings occur, thicken the walls by their ratio of surface. All piers, pillars and columns shall be capable of sustaining the aggregated live load given and the weight of the building. All arches must contain the line of pressure within the middle one-third of the voussoirs. The greatest pressure allowed per square foot of good brick work shall be five tons; for work of hard brick, laid in first-class cement, ten tons; for unbedded sandstone masonry, four tons; for second-class masonry, eight tons; for first-class masonry, twelve tons. Piers, columns, pillars and all marble, granite and limestone work, not over twenty per cent. of the crushing weight. Every such building, place or room, when above the second floor, shall be provided with at least one fire-escape, which shall be so placed as to be easily accessible, so marked that it may be generally understood, so constructed as to lead directly to the open air, and so designed as not to be dangerous for women and children, and shall be sufficiently enclosed to protect persons thereon from fire below, i. e., it shall be placed against a dead wall and be enclosed on three sides, and in buildings where two or more assemblages occur, as in school-houses, each room above the second floor must have an exit leading to a fire-escape. No fire-escapes shall be less than twenty-four inches in clear width, with an additional one-fourth inch in width for each person (over fifty) to be accommodated thereby. The ventilating system or machinery shall be capable of changing the air in such room every thirty minutes; and all lavatories and water-closet places shall have double the above given capacity for ventilation; and all conveniences used in such buildings shall have soil and waste-pipes fully ventilated to the outside air. The warming and lighting apparatus shall be arranged and constructed so as to be safe against explosion or fire. All smoke flues or pipes, unless lined with terra cotta or other fire-proof material of permanent character, shall not be nearer than eight inches to any combustible material, and not nearer than four inches in any case, nor shall any smoke flue, pipe or chamber of metal being or passing under wood-work, be nearer thereto than twice the diameter of such pipe, flue or chamber, unless protected with suitable fire-proof guard with open space above. Every warm air flue of metal shall be at least one-half inch from all wood-work, and also completely covered with asbestos or other fire-proof wrapping, with circulation of air between it and the wood, and no wood shall

be nearer than four inches to any such flue in brick work. (7755–11; 86 v. 381.)

SEC. 197. [**Exceptions as to application of this act.**] This act shall not apply to cities of the first class where the construction of buildings is regulated by statute under the direction of a building inspector; nor shall it be construed so as to interfere with existing laws relating to the inspection of buildings, but no certificate as now provided by law shall be issued for buildings hereafter erected, or alterations hereafter made (except in such cities of the first class), unless they conform to the requirements of this act. (7755–12; 86 v. 383.)

SEC. 198. [**Penalty for violation of this act.**] Any person who violates any of the requirements of this act shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be fined in any sum not less than $100 nor more than $1,000, or be imprisoned in the county jail not less thon ten nor more than sixty days, or both, at the discretion of the court, and shall be also liable to any person injured by reason of his violation of the requirements of this act, and shall be also liable for criminal prosecution for loss of life. (7755–13; 86 v. 383.)

SEC. 199. [**Prosecuting attorney to enforce provisions of act.**] It shall be the duty of prosecuting attorneys to see that this law is enforced in their respective counties, and for each conviction of violation thereof they shall be entitled to a fee of twenty-five dollars, and such other sums as may be allowed by the board of county commissioners. (7755–14; 86 v. 383.)

SEC. 200. [**Examination of public hall, etc., as to safety in case of fire.**] On application of the owner or person having control of an opera house, hall, theater, church, school-house, or other building except buildings where secret societies are held, used for public assemblages, in any municipal corporation, the mayor, civil engineer, and chief engineer of the fire department, or if such corporation has no such engineer, the mayor and two members of council, shall carefully make a joint examination of such opera house, hall, theater, church, school-house, or other building, to ascertain the means provided thereat and therein for the speedy and safe egress of the persons that may at any time be there assembled, and the means provided for extinguishing a fire at or in such place: provided, that when the assembly rooms of such church are situated upon the ground floor, with a sufficient number of low windows, in the opinion of the commission above provided for, to secure safe and easy means of escape in case of alarm, they shall grant the certificate mentioned in the next following section. (2568; 62 v. 139.)

SEC. 201. [**Certificate in such case.**] If, upon such examination, it is found that such opera house, hall, theater, church, school-house, or other building is abundantly provided with means for speedy and safe egress of the persons who may at any time be there assembled, and, if above the first floor, that it is provided therein with water or other equally efficient agency, and proper means to apply it, so that any fire which may occur at such place can be immediately extinguished, the mayor and persons so acting with him, or a majority of the three, shall issue to such owner or person having control as aforesaid, a certificate of the fact, which shall continue in force one year, unless sooner revoked by council. (2569; 62 v. 139.)

SEC. 202. [**Re-examination in case of change in building.**] If any change or alteration is made in such building, the owner or person having charge of it shall notify the mayor of the fact, who shall cause to be made

a re-examination in all respects like that provided for in the last section, and if upon such examination such owner, or person having control, is entitled to such certificate as is mentioned in the last section, it shall be issued to him, with like effect. (2570; 62 v. 139.)

Sec. 203. **[Appeal of owner or person in control from refusal to issue certificate.]** If any owner or person having control of such place, as aforesaid, shall feel himself aggrieved by the refusal of such officers to issue any such certificate, he may appeal from the decision to the council, which shall appoint three disinterested persons to examine the premises, any two of whom may issue the certificates provided for in sections *two thousand five hundred and sixty-nine* and *two thousand five hundred and seventy.* (2571; 62 v. 139.)

Sec. 204. **[Penalties against owner or person having control.]** Whoever being the owner or having control as an officer, agent or otherwise, of any opera house, hall, theater, church, school-house, or other place, for [the] public assemblage of people, in a municipal corporation, permits it to be used when any door affording exit therefrom is locked or barred, or opens inwardly; when the place is not provided with ample means for the safe and speedy egress of the persons who may be so assembled; when, if it is on another than the first floor, sufficient water and proper means to apply it, or other efficient means, are not provided in such place to extinguish any fire which may occur thereat; or when the certificate provided for in section 2569 or section 2570, as the case may be, has not been issued, or is not in full force, shall, for each day or night he permits such place to be so used or occupied, forfeit and pay any sum not more than one thousand dollars, [nor] less than fifty dollars, to be recovered, with costs, in [a] civil action, in the name and for the use of the municipal corporation; and it shall be the duty of the mayor, with the aid of the police, to see that the provisions of this section are strictly enforced. (2572; 62 v. 139.)

Sec. 205. **[Public halls: inspection may be dispensed with in certain cases; refusal of certificate.]** Whenever any structure referred to in section 2572 shall have been inspected by the state inspector of shops and factories, and such inspector shall have issued to the owner thereof or his agent, a certificate that such structure is properly arranged for the safe and speedy egress of persons who may be assembled therein, and also properly provided with means for the extinguishment of fire at or in such structure as now required by law, then such certificate shall dispense with all other inspections and certificates required by law in regard to the safety of such structures for public assemblages, and in case such inspector shall find on inspection that such structure is not properly arranged for the safe and speedy egress of persons who may be there assembled, or not properly provided with means for the extinguishment of fire at or in such structure as now required by law, he shall notify the owner, officer or agent in charge of such structure and the mayor of the municipal corporation wherein the same is located, in writing, of the fact that he refuses such certificate, specifying his reasons and the alterations, additions and appliances necessary to be made and furnished before a certificate will be issued; and no certificate required by law in regard to the safety of such structure shall be issued by the mayor, or any officer or person under any provision of the law till the requirements of the foregoing notice are complied with to the satisfaction of the state inspector. (1891, March 6: 2572*a*; 88 v. 85.)

Sec. 206. **[Public halls, etc., when inspection to be made.]** It shall be the duty of the state inspector of workshops and factories, or his

assistants, to make inspections of such building as is provided for in sections 2568 and 2569 of the Revised Statutes of Ohio as often as he may deem necessary, or upon the written demand of the agent, or owner of such structure, or upon the written request of five or more citizens of the municipal corporation where such structure is located. (1890, April 24: 2572*b*; 87 v. 279.)

SEC. 207. [**Duties of factory-men, hotel-keepers, etc., as to fire escapes.**] It shall be the duty of any owner or agent for owner of any factory, workshop, tenement house, inn, or public house, if such factory, workshop, tenement house, inn, or public house be more than two stories high, to provide [a] convenient exit from the different upper stories of said building, which shall be easily accessible in case of fire, and any owner or person having control of any such inn or public house where travelers or boarders are lodged in any story above the second story of the building, shall also provide a good rope or other life line for each sleeping room for guests in such stories. (2573; 80 v. 187.)

Where the owner of the factory is one person, and the owner of the building in which the factory is located is another, the former is the person on whom the duty named in the statute is enjoined: Lee *v.* Smith, 42 O. S. 458. Owen, J. dissented.

SEC. 208. [**Duty of mayor to require such escapes; penalty for failure to comply.**] It shall be the duty of the mayor of each city or village to require the owner or agent for owner of any factory, workshop, tenement house, or inn or public house, within the meaning of the next preceding section, to comply with the requirements of said section within sixty days from the serving of a notice by the mayor so to do, unless such owner or agent for owner shall have previously complied with the requirements of said preceding section, and if any such owner or agent of owner neglects or refuses to comply with the requirements of the next preceding section within the time specified in said notice, he shall forfeit not less than fifty nor more than three hundred dollars for each and every month he so fails to comply therewith, the amounts so forfeited to be recovered in the name of and for the use of such city or village in an action in the police court or other competent tribunal; such owner or agent for owner may also be held for civil damages to the party injured. (2574; 80 v. 187.)

SEC. 209. [**Mayor etc., to examine building once a year; compensation.**] It shall be the duty of the mayor of such city or village, personally, or by the marshal or head of police of such city or village, or other proper person whom the mayor may appoint acting under the direction of the mayor, as inspectors of fire-escapes to carefully examine such factories, workshops, tenement houses, inns or public houses once in each year, and report all violations of the provisions of sections 2573 and 2574 to the council of such city or village, when proceedings shall be commenced, without unnecessary delay, against the person so offending, and said mayor, marshal, or head of police, or person so appointed by the mayor to act as inspector of fire-escapes shall be entitled to receive for said notices and said examination such fees as the council may by ordinance provide. (2575; 80 v. 188.)

SEC. 210. [**Penalty for using hall, theater, etc., without certificate; unlawful to obstruct aisles.**] Whoever being the owner of a hall, theater, opera-house, church or school-house, having the control thereof, individually or by virtue of his office as agent of any society or corporation, permits the same to be used for the purpose of public assemblies or schools

without having the certificate required by law that the same is provided with the means of speedy and safe ingress and egress, shall be fined not more than one thousand dollars for each and every such offense; nor shall it be lawful for any owner, lessee or proprietor of a hall, theater or opera-house to block up the aisles and hall-ways therein by placing chairs, stools or permitting them to be occupied by persons standing therein, or by any obstructions whatever to the danger of those occupying sittings therein, by cutting off an escape, and easy egress therefrom, under the penalty as above enumerated in this section for not providing means for escape in case of fire or other casualties. (7010; 80 v. 28.)

Sec. 211. [**Certain boarding-schools and colleges to be furnished with fire escapes.**] Whoever being the owner of a building more than two stories in height used as a boarding-school or college or having control thereof, individually or by virtue of his office as agent of any society or corporation, permits the same to be used for the purposes of a boarding-school without having provided the same with convenient and safe means of ingress and egress in case of fire, shall be fined not more than one thousand dollars for each and every such offense. (1891, March 16: 88 v. 103.)

DIVISION X.

Relating to Railroads and Railroad Employes

COMMISSIONER OF RAILROADS.

Sec. 212. [**Duty of commissioner to examine tracks, bridges, etc., supposed to be dangerous; shall prescribe rate of speed for passing over same, or wholly stop the trains from passing over same; penalties.**] When the commissioner has reasonable grounds to believe, either on complaint or otherwise, that any of the tracks, bridges, or other structures of any railroad in this state are in a condition which renders them, or any of them, dangerous, or unfit for the transportation of passengers, he shall forthwith inspect and examine the same; and if, on such examination by himself or his agent, he is of opinion that any of such tracks, bridges, or other structures are unfit for the transportation of passengers with safety, he shall immediately give to the superintendent, or other executive officer of the company operating such road, notice of the condition thereof, and of the repairs or reconstruction necessary to place the same in a safe condition; and he may also prescribe the rate of speed for trains passing over such dangerous or defective track, bridge, or other structure, until the repairs or reconstructions required are made, and the time within which such repairs or reconstructions must be made; or if, in his opinion, it is needful and proper,

he may forbid the running of passenger trains over such defective track, bridge or other structure; and if a superintendent or other executive officer receiving such notice and order neglects for two days after receiving the same to direct the proper subordinate officers to run the passenger trains over such defective track, bridge, or other structure, at a speed not greater than that so prescribed, or if the running of passenger trains is so forbidden, then to stop running passenger trains over the same; or if any engineer, conductor, or other employe knowingly disobeys such order, every superintendent, officer, engineer, conductor, or employe, so offending, shall be fined in any sum not exceeding five hundred dollars, or imprisoned in the jail for any period not exceeding one year, or both, at the discretion of the court; and the company operating such road, if it neglects or without good cause fails to make the repairs or reconstruction prescribed by the commissioner within the time by him limited, shall for each day that such repair or reconstruction is delayed beyond the time prescribed, forfeit and pay to the state the sum of one hundred dollars. (247; 64 v. 111.)

SEC. 213. **[When railroad companies must erect gates at crossings.]** When, in the opinion of the commissioner of railroads, the public safety requires that a gate or gates be erected and maintained at any place where a public road or street is crossed at the same level by any railroad, and which crossing has been declared by said commissioner to be a dangerous one, or that a flagman be stationed and maintained at such dangerous crossing, he shall give to the superintendent, manager or other officer in charge of such railroad, a written notice that the same is required, and such company, person or corporation owning or operating such railroad shall erect or station the same within such time thereafter as said commissioner shall prescribe. Any company, person or corporation neglecting or refusing to erect or maintain such gate or gates, or to maintain such flagman, when so required as aforesaid, shall forfeit and pay to the state, for every such neglect or refusal, the sum of one hundred dollars, and the further sum of ten dollars for every day while such neglect or refusal shall continue. (247*a*; 86 v. 367.)

SEC. 214. **[Must be approved by commissioner of railroads; penalty for violation of this act.]** All gates which by the provisions of this act are under the direction of the commissioner of railroads, shall be built in such manner, and within such time, and of such material as shall be approved by the commissioner of railroads, and shall be located on the highway or street, on one or both sides of the railroad track or tracks, as the commissioner may deem the public safety to require, and shall be so constructed as, when closed, to obstruct and prevent any passage across such railroad or railroads from the side on which such gate may be located. There shall be a person in charge of every such gate, and it shall be his duty to close the same at the approach of every train of cars, or of a locomotive, and to keep it open at all other times. For every neglect of such duty, such person upon conviction thereof, shall pay the sum of twenty-five dollars. When more than one railroad crosses a public highway or street at such dangerous crossing, the expense incurred in the erection and maintenance of the gates provided for in this section, and of the necessary gate-keepers, or of a flagman, shall be shared equally by the railroad companies alongside whose tracks the gates shall be located. (247*b*; 86 v. 367.)

SEC. 215. **[Must erect sign boards at road crossings.]** Each company shall erect, at all points where its road crosses a public road, at a sufficient elevation from such public road to admit of the free passage of vehicles

of every kind, a sign, with large and distinct letters placed thereon, to give notice of the proximity of the railroad, and warn persons to be on the lookout for the locomotive; and a company which neglects or refuses to comply with this provision shall be liable in damages for all injuries which occur to persons or property from such neglect or refusal. (3323; 50 v. 274.)

HEATING, LIGHTING, ETC., OF PASSENGER CARS.

SEC. 216. **[Movable bridge between passenger cars required.]** Every company conveying passengers shall provide the passenger cars in its trains with a flexible or movable bridge or apron, of the full width of the opening between the railings attached to the platforms of such cars, with side boards or net-work of strap iron or large wire, or other suitable material, at each side of the bridge or apron, of at least equal height with the ordinary railings upon the platforms, or some other apparatus or arrangement equally efficient to enable passengers to pass from car to car with safety. (3347; 68 v. 35.)

SEC. 217. **[Penalties for violation of preceding section.]** A company which fails to comply with the provisions of the preceding section shall be subject to a penalty of one hundred dollars for each and every day of such failure, to be recovered in a civil action, in the name of the state, and paid into the state treasury. (3348; 68 v. 35.)

SEC. 218. **[Commissioner of railroads must enforce certain sections.]** The commissioner of railroads and telegraphs shall see that the provisions of sections 3347 and 3348 are enforced. (3350; 68 v. 35.)

SEC. 219. **[Prescribing heating apparatus for railroad cars.]** Each railroad company in this state shall, when necessary to heat any of its cars for carrying passengers, mail, baggage or express matter, do so by a stove or heater so constructed and protected as to most effectually guard the passengers against the danger by fire, in case of accident by collision, or the cars being overturned or thrown from the track, and it shall be unlawful for any such company to permit any other person or corporation to use cars carrying passengers, mail, baggage or express matter over its road unless the heating apparatus thereof shall conform to the requirements of this section. (3351; 77 v. 202)

SEC. 220. **[How passenger cars to be lighted.]** No passenger cars on any railroad shall be lighted by naphtha, or any illuminating oil fluid made in part from naphtha, or wholly or in part from coal or petroleum, or other substance or material which will ignite at a temperature of less than three hundred degrees Fahrenheit; and the commissioner of railroads and telegraphs, by himself or agent, may, at any time, enter the cars running on any railroad and take from any lamp therein samples of the oil found there, for the purpose of testing the same, and if it proves of a lower grade than is required by the provisions of this section, he shall bring suit for the penalty provided in section 3354. (3353; 74 v. 207.)

SEC. 221. **[Penalties for violating certain sections.]** Any railroad company refusing or neglecting to comply with the provisions of section 3351, shall be liable to a penalty of not less than one hundred, nor over five hundred dollars, to be recovered in a civil action in any court of record in any county through which such road shall pass, in the name of the state of Ohio for the benefit of the common schools of the state, to be prosecuted by the prosecuting attorney of the proper county, at the instance of the

prosecuting attorney or at the instance of the railroad commissioner, as provided by law (sec. 263, Rev. St.) in other cases for the recovery of penalities and forfeitures against railroad companies, after due notice given by such railroad commissioner to the president or managing officer of such delinquent railroad company, and its neglect thereafter for a period of thirty days to comply with the provisions of said section; the prosecuting attorney to receive twenty-five (25) per cent. of all fines and costs collected under the provisions of this act. (3354; 77 v. 202.)

RAILROAD EMPLOYES.

SEC. 222. **[Employment of color-blind persons by railroad companies forbidden, except; examination.]** No railroad company shall hereafter contract to employ any person in a position which requires him to distinguish form or color signals, unless such person within two years next preceding has been examined for color-blindness in the distinct colors in actual use by such railroad company by some competent person employed and paid by the railroad company, and has received a certificate that he is not disqualified for such position by color-blindness in the colors used by a railroad company. Every railroad company shall require such employe to be re-examined at least once within every two years at the expense of the railroad company; provided, that nothing in this section shall prevent any railroad company from continuing in its employment any employe having defective sight, in all cases where such defective sight can be fully remedied by the use of glasses, or by other means, satisfactory to the person making such examinations. (8516-29; 85 v. 58.)

SEC. 223. **[Penalty.]** A railroad company shall be liable to a fine of one hundred dollars for each violation of the preceding section. (8516-30; 85 v. 58.)

SEC. 224. **[Requirements as to qualifications of railroad conductors and locomotive engineers.]** It shall be unlawful for any railroad company or corporation, running or operating a steam railroad in the state of Ohio, thirty miles in length or more, and the same having, been run and operated for three years or more, to employ any person in the capacity of conductor of passenger train or trains, unless such person has had at least two years' experience in the position of conductor, engineer or trainman of either passenger, freight, or construction train, within six years next preceding the time of such employment. It shall also be unlawful for any such railroad company or corporation, to employ any person in the capacity of freight conductor, or conductor of a construction train, unless such person has had at least two years' previous experience as conductor, engineer or trainmen, for a term of two years, or has been employed as a brakeman for at least two years on either passenger, freight or construction trains within five years next preceding the time of such employment. It shall be unlawful for any such railroad company to employ any person in the capacity of locomotive engineer unless such person has had at least three years' experience as locomotive fireman. But nothing in this act shall be so construed as to prevent any such railroad company or corporation from retaining conductors, engineer or trainman, in its employ at the time of its passage. (1891, April 17; 88 v. 320.)

SEC. 225. **[Penalties.]** Any railroad company or corporation knowingly violating the provisions of this act, shall be fined, for the first

offense, not less than five hundred nor more than one thousand dollars, and for any subsequent offense shall be fined not less than one thousand nor more than fifteen hundred dollars, which shall be recovered in a civil action in the name of the state. (1891, April 17; 88 v. 320.)

SEC. 226. **[Duty of railroad commissioner.]** It is hereby made the duty of the railroad commissioner of this state to enforce the provisions of this act. (1891, April 17; 88 v. 321.)

SEC. 227. **Railroad companies shall not employ locomotive engineers addicted to drink; penalty.]** It shall be unlawful for any person, company or corporation operating a railroad in whole or in part in this state, knowingly to suffer or permit, either directly, or by, or through, any representative, any person to run or operate in any capacity a railroad locomotive on any part of his, their or its road in this state who is intoxicated, or in the habit of becoming intoxicated or to knowingly continue the employment of any person in any such capacity, after he becomes or is intoxicated, while in charge of such locomotive, and for every violation of this section, such company, person or corporation operating such road, shall forfeit and pay to the state of Ohio two hundred dollars to be recovered in the name of the state in a civil action to be prosecuted in any county through which the road runs, by the prosecuting attorney thereof, and he shall be entitled to twenty-five per cent. of the recovery and the balance shall be paid into the county treasury.

SEC. 228. **[Hours of services of certain railway employes limited.]** That section 1 of an act entitled an act to provide against accidents on railroads, and to limit the hours of service, be amended so as to read as follows: That any company operating a railroad over thirty miles in length, in whole or in part, within the state, shall not permit or require any conductor, engineer, fireman or brakeman on any train, or any telegraph operator, who have worked in their respective capacities for twenty-four consecutive hours, to again be required to go on duty, or perform any work, until they have had at least eight hours rest. Ten hours shall constitute a day's work, and for every hour that any conductor, fireman, engineer, brakeman, or any trainman, or any telegraph operater of any company, who works under directions of a superior, or at the request of the company, shall be paid for said extra services in addition to his per diem. (1891, April 23; 88 v. 344.)

SEC. 229. **[Penalty for violation of foregoing section.]** Any company which violates, or permits to be violated any of the provisions of the preceding section, or any officer, agent or employe who violates, or permits to be violated any of the provisions of the preceding section shall be fined not less than one hundred dollars, nor more than one hundred and fifty dollars. (1890, March 26; 87 v. 113)

SEC. 230 **[For the protection of railroad employes; use of defective machinery prima facie evidence of neglect, etc.]** That it shall be unlawful for any railroad or railway corporation or company owning and operating, or operating, or that may hereafter own or operate a railroad in whole or in part in this state, to adopt or promulgate any rule or regulation for the government of its servants or employes, or make or enter into any contract or agreement with any person engaged in or about to engage in its service, in which, or by the terms of which, such employe in any manner, directly or indirectly, promises or agrees to hold such corporation or company harmless, on account of any injury he may receive by reason of any accident to, breakage, defect or insufficiency in the cars

or machinery and attachments thereto belonging, upon any cars so owned and operated, or being run and operated by such corporation, or company being defective, and any such rule, regulation, contract or agreement shall be of no effect. It shall be unlawful for any corporation to compel or require directly or indirectly an employe to join any company association whatsoever, or to withhold any part of an employe's wages or his salary for the payment of dues or assessments in any society or organization whatsoever, or demand or require either as a condition precedent to securing employment or being employed, and said railroad or railway company shall not discharge any employe because he refuses or neglects to become a member of any society or organization. And if any employe is discharged, he may, at any time within ten days after receiving a notice of his discharge demand the reason of said discharge, and said railway or railroad company thereupon shall furnish said reason to said discharged employe in writing. And no railroad company, insurance society or association, or other person shall demand, accept, require, or enter into any contract, agreement, stipulation with any person about to enter, or in the employ of any railroad company whereby such person stipulates or agrees to surrender or waive any right to damages against any railroad company, thereafter arising for personal injury or death, or whereby he agrees to surrender or waive in case he asserts the same, any other right whatsoever, and all such stipulation and agreements shall be void, and every corporation, association or person violating or aiding or abetting in the violation of this section shall, for each offense forfeit and pay to the person wronged or deptived of his rights hereunder the sum not less than fifty dollars ($50) nor more than five hundred dollars ($500) to be recovered in a civil action.

SECTION 2. It shall be unlawful for any such corporation to knowingly or negligently use or operate any car or locomotive that is defective, or any car or locomotive upon which the machinery or attachments thereto belonging are in any manner defective. If the employe of any such corporation shall receive any injury by reason of any defect in any car or locomotive, or the machinery or attachments thereto belonging, owned and operated, or being run and operated by such corporation, such corporation shall be deemed to have had knowledge of such defect before and at the time such injury is so sustained, and when the fact of such defect shall be made to appear in the trial of any action in the courts of this state, brought by such employe or his legal representatives, against any railroad corporation for damages, on account of such injuries so received, the same shall be prima facie evidence of negligence on the part of such corporation. (1890, April 2; 87 v. 149.)

SEC. 231. **[Superior officer and fellow servant defined.]** That in all actions against the railroad company for personal injury to, or death resulting from personal injury, of any person, while in the employe of such company, arising from the negligence of such company or any of its officers or employes, it shall be held in addition to the liability now existing by law, that every person in the employ of such company, actually having power or authority to direct or control any other employe of such company, is not the fellow servant, but superior of such other employe, also that every person in the employ of such company having charge or control of employes in any separate branch or department, shall be held to be the superior and not fellow servant of employes in any other branch or department who have no power to direct or control in the branch or department in which they are employed. (1890, April 2; 87 v. 150.)

SEC. 232. **[Blocking of railway frogs, guard rails, etc.]** Every

railroad corporation operating a railroad or part of a railroad in this state shall, before the first day of October, in the year eighteen hundred and eighty-eight, adjust, fill or block the frogs, switches and guard rails on its track, with the exception of guard rails on bridges, so as to prevent the feet of its employes from being caught therein. The work shall be done to the satisfaction of the railroad commissioner. (8516–31; 85 v. 105.)

SEC. 233. **[Penalty for failure so to do.]** Any railroad corporation failing to comply with the provisions of this act, shall be punished by a fine of not less than one hundred dollars, nor more than one thousand dollars. (8516–32; 85 v. 105.)

BRIDGES: SWITCHING.

SEC. 234. **[Bridges over railroad crossings.]** It shall be unlawful for any person, company or corporation owning, or operating any railroad, crossing, or that may hereafter cross, over and above any street, less than seventy feet in width, in any city in this state, at an elevation above such street, sufficient to permit persons to pass and repass along such street beneath such railroad crossing, to place or cause to be placed, or to suffer or permit to be or remain in such street, beneath such railroad crossing or bridge, any pier or other stay or support for such crossing or bridge, or to suffer or permit any such railroad crossing or bridge to be or remain in such condition, that any iron, coal or other hard substance, or any fluid or noisome matter, may fall or drop from or through any such crossing or bridge, upon persons traveling or passing beneath the same; and any such person, company or corporation owning or operating any such railroad, failing to comply with the requirements of, or violating any of the provisions of this section, shall, for each and every day during the continuance of such failure or violation, and on account thereof, forfeit and pay to such city the sum of one hundred dollars, which may be recovered in a civil action, in the name of such city, against the owner or operator of such railroad, or both, as the city may elect, and thereafter like recovery may be had in like manner, for subsequent failures and violations aforesaid. (8516–43; 86 v. 197.)

SEC. 235. **[Council may prohibit switching, obstructing, etc.]** The city council of any city may prohibit the switching of freight engines, trains, or cars, over or on said crossing or bridge, the sounding of locomotive steam whistles on or near the same, and the standing or stopping of any railroad engine over or on the same, and may, by ordinance, constitute the same an offense, and provide for the punishment of any person committing such offense. (8516–44; 86 v. 197.)

STREET RAILROADS.

SEC. 236. **[Intersecting street railroads: repair of crossings, stopping of cars at crossing.]** Where the tracks of two street railroads cross each other or in any way connect at a common grade, when one or both such street railroads use other than horse power for propelling their street-cars, the crossings shall be made and kept in repair at the joint expense of the companies owning the tracks, and all such cars used on said street railroads shall come to a full stop, not nearer than ten feet nor further than fifty feet from the crossing, and shall not cross until the way is clear; and when two or more cars approach the crossing at the same time the

car or cars on the road first built shall have precedence. (1891, May 4: 88 v. 581.)

SEC. 237. **[Street-cars must come to full stop when approaching intersecting steam railway, etc.]** That whenever the tracks of any street railroads in this state cross the tracks of any steam railway at grade, the street railway company operating said line of cars shall cause their street-cars to come to a full stop not nearer than ten feet nor further than fifty feet from the crossing, and before proceeding to cross said steam railway tracks, shall cause some person in their employ to go ahead of said car or cars and ascertain if the way is clear and free from danger for the passage of said street-cars, and said street railroad cars shall not proceed to cross until signaled so to do by such person so employed as aforesaid, or said way is clear for their passage over said tracks. (1891, May 4: 88 v. 582.)

SEC. 238. **[Penalties.]** Every person in charge of any street-car or cars who willfully fails to comply with the provisions of this act, and fails to bring said car or cars which he has in charge to a full stop, or causes the same before the way is clear, or signaled so to do to cross said steam railroad tracks, shall be personally liable to any person injured by reason of such failure as aforesaid, to a penalty of one hundred dollars, to be recovered by civil action at the suit of the state of Ohio, in the court of common pleas of any county wherein such crossing or connection is, and the company in whose employe such person having charge of said car or cars is, as well as the person himself shall be liable in damages to any person or persons injured in person or property [having charge of such car or cars] as aforesaid. (1891, May 4: 88 v. 582.)

DIVISION XI.

Relating to Sewerage, Drainage, etc.

SEC. 239. In addition to the powers specifically granted in this title, and subject to the exceptions and limitations in other parts of it, cities and villages shall have the general powers enumerated in this section, and the council may provide by ordinance for the exercise and enforcement of the same.

(*a*) 21. **[Sewers.]** To open, construct, and keep in repair sewers, drains, and ditches.

(*b*) 31. **[Water.]** To provide for a supply of water, by the construction of wells, pumps, cisterns, aqueducts, water-pipes, reservoirs, and water works, and for the protection thereof, and to prevent unnecessary waste of water, and the pollution thereof. (1692; 86 v. 357.)

SEC. 240. **When county commissioners may construct ditches or improve channel of river or creek.**] The commissioners of any county at any regular or called session may, in the manner provided in this chapter, when the same is necessary to drain any lots, lands, public or corporate road or railroad, and will be conducive to public health, convenience or welfare, cause to be located, and constructed, straightened, widened, altered, deepened, boxed or tiled, any ditch, drain or water course, or box or tile any portion thereof or cause the channel of all or any part of any river, creek or run, within such county to be improved by straightening, widening, deepening or changing the same, or by removing from adjacent lands any timber, brush, trees or other substance liable to form obstructions therein. (4447; 82 v. 89.)

SEC. 241. [**Township trustees may establish ditches.**] The trustees of any township may, whenever, in their opinion, the same will be conducive to the public health, convenience or welfare, cause to be established, located and constructed, as hereinafter provided, any ditch within such township, and for that purpose may cross a railroad, turnpike road, or do any other thing necessary or proper to promote said purpose. (4511; 78 v. 204.

SEC. 242. [**Commissioners may remove obstructions as a sanitary measure.**] The county commissioners of any county may, whenever in their opinion the same will be conducive to the public health, convenience, or welfare, upon petition of the owner of any land adjoining or adjacent to any stream of living water, remove, or cause to be removed any drift, timber, or other obstructions except mill-dams, water-works, or flood-gates, that may hinder the free passage of water in the natural channel of such stream. (4567; 74 v. 22.)

It is the public health, convenience or welfare of the community to be affected by the proposed ditch, and not of the public at large, that is to be regarded in the construction of a ditch. Hence, if it appears that the proposed ditch will be "conducive to the public health, convenience and welfare of the neighborhood" through which it will pass, the commissioners are authorized to construct the same. Chesbough v. Commissioners, 37 O. S. 508.

SEC. 243. [**County commissioners may remove certain mill-dams as a sanitary measure.**] The county commissioners of any county may, whenever in their opinion the same will be conducive to the public health, convenience or welfare, upon petition of the owners of any lands adjoining or adjacent to any stream of living water, remove or cause to be removed any mill-dam or mill dams that may hinder the free passage of water in the natural channel of such stream. (4567*a*; 80 v. 200.)

SEC. 244. [**If conducive to public health, commissioners may purchase and remove mill-dams; estimating cost of removing same; cost of to be apportioned according to benefits; when right to compensation barred; etc.**] If the commissioners find that the bond has been filed and notice given, they shall proceed to hear and determine the petition, and shall proceed to view the premises along the proposed improvement and the lands of the petitioners affected by said mill-dam or mill-dams, and if they find that such improvement and removal of said mill-dam or mill-dams will be conducive to the public health, convenience or welfare, they shall at once proceed to negotiate with and purchase of the owner or owners of such mill-dam or mill-dams, all rights, title and interest they may have to or in the same, and all franchises pertaining thereto, receiv-

ing thereby the absolute right to remove the same for the free passage of water in the channel of such stream. Said purchases to be made upon such terms and for such price as may seem reasonable and just to said commissioners; at the same time said commissioners shall take with them a competent surveyer or engineer, who shall make a careful estimate of the necessary cost of removing said mill-dam or mill-dams for the free passage of water in the channel of such stream. Said commissioners shall fix a day for further hearing, and order that due notice be served, in writing, by the principal petitioners upon each and every one of said petitioners, of the time and place of said hearing. If, on said hearing, it appears to the commissioners that the notice herein provided for has not been given, the commissioners shall adjourn to some future time not exceeding twenty days, and shall order such notice to be given. On the day fixed by the commissioners for final hearing, they shall meet at the time and place appointed, and shall then and there state and make known to the petitioners the amount asked by the owner or owners of such mill-dam or mill-dams of all their right, title and interest to and in the same and the franchises pertaining thereto, and for the right to remove the same so that the waters of such stream shall pass through without hindrance; and the necessary cost of removing said mill-dam or mill-dams, as estimated by said engineer or surveyor, together with all other taxable costs of the proceedings. And if, upon such statement, no objections be made thereto, by said petitioners, or either of them, said commissioners shall make a record thereof. Said commissioners shall then apportion to each of said petitioners, in a fair and equitable manner, according to the benefits to be derived therefrom, as nearly as can be done, all costs of the proceedings, as in county ditch cases, the amount asked by the owner or owners of said mill-dam or mill-dams, and agreed upon as above, and the amount of costs necessary to the removal of said mill-dam or mill-dams, as reported by the surveyer or engineer. (But in any case, where a mill has become useless or has been destroyed, and has so remained for more than ten years, without any attempt to repair or rebuild the same, the mill-dam and water-rights and privileges belonging to the same shall be deemed abandoned and the right thereto as against the public health, convenience and welfare, under this act, shall cease and be barred; and the commissioners may, under this act, without bargain or compensation, cause such mill-dam to be removed and the water-course upon which it is located, cleaned out and improved. When an apportionment has been made, as hereinbefore stated.) The commissioners shall then order the said amounts to be placed upon the tax duplicates, against the real estate of said petitioners benefited by the removal of such dam, and to be collected within the time and to meet the payments as far as practicable, in conformity with the provisions of the county ditch law, agreed upon between said commissioners and said mill-dam owner or owners, adding to the first year's assessment the taxable costs of the proceedings, and the estimated costs of removing said mill-dam or mill-dams. Said assessment shall be collected the same as other assessments against real estate, and paid into the treasury of the county wherein said petitioners reside, and wherein said mill-dam or mill-dams are situated, and shall be paid out by the county treasurer on the warrant of the county auditor, who shall issue his warrants in accordance with the records and orders of the county commissioners. The surveyor or engineer appointed by the commissioners, shall sell at public outcry the work of removing such mill-dam or mill-dams, and supervise the same, as stated in sections 4475, 4476, 4477 and 4478 of the Revised Statutes of Ohio. From the action of said commissioners in apportioning the costs,

expenses and assessments provided herein, there shall be no appeal. (4567*c*; 81 v. 135.)

SEC. 245. [**Ditches must be provided by railroads.**] There shall be constructed and kept open, along the road-bed of every railroad, except where the road extends through or by swamp land, by the company or person operating the road, ditches or drains of sufficient depth, width, and grade to conduct to some proper outlet the water which accumulates along the sides of such road-bed from the construction or operation of such road. (3342; 66 v. 335.)

SEC. 246. [**Probate court may order construction of levee.**] The probate court of any county may, whenever found to be conducive to the public health, convenience, or welfare, cause to [be] located, established and constructed, as hereinafter provided, a levee along any stream or water-course of any kind within the county, for the protection of land from overflow. (4585; 73 v. 88.)

DIVISION XII.

Relating to Animals and Animal Diseases.

LIVE STOCK COMMISSION.

SEC. 249. [**Board of live stock commissioners.**] The governor shall, with the advice and consent of the senate, appoint three persons, who shall constitute a board of live stock commissioners, who shall hold their office in the order in which they are named, the first for one year, the second for two years, and the third for three years, and their successors in office shall be appoited for three years each. They shall meet as soon as practicable after their appointment, and after taking the oath of office, shall appoint from their number a president and secretary. (7468–26; 82 v. 176.)

SEC. 248. [**Their powers and duties.**] The board of commissioners are authorized to use all proper means to prevent the spread of dangerous and fatal diseases among domestic animals, and to provide for the extirpation of such diseases; and in the event of any such contagious or infectious disease breaking out in this state, it shall be the duty of all persons owning or having in charge animals infected with the same, to immediately notify said board of commissioners, or some member thereof, of the existence of such disease, and thereupon it shall be the duty of said board, immediately to cause proper examination thereof to be made by a competent veterinarian; and if said disease shall be found to be a dangerously contagious or infectious malady, the board shall order the diseased animals, and such as have been exposed to the contagion, to be strictly quarantined in charge of such person as the board, or an authorized member thereof, shall designate, and to order any premises or farms where

such disease exists, or has recently existed, to be put in quarantine, so that no domestic animal subject to such disease, be removed from or brought to, the premises or places so quarantined; and the board shall prescribe such regulations as they may deem necessary to prevent the contagion from being communicated in any way from the premises so quarantined. (7468–27; 82 v. 176.)

SEC. 249. **[Bodies of dead animals.]** The bodies of all dead animals shall be buried or burned by the owners thereof, as provided by law. (7468–28; 82 v. 176.)

CONTAGIOUS OR INFECTIOUS DISEASES OF ANIMALS.

SEC. 250. **[Bodies of animals dying from contagious diseases must be burned or buried.]** The bodies of all animals dying from contagious diseases shall be burned, or buried at least four feet below the surface of the ground by the owner thereof. Any such owner permitting such dead animals to remain unburned, or unburied, or neglecting, or refusing to comply with the provisions of this section within twenty-four hours after having knowledge of the existence of such dead animals, or after notice thereof, in writing from the trustees of the township in which such dead animals may be found, it shall be the duty of said trustees to proceed to dispose of such dead animals as provided in this section, and such owner, so neglecting or refusing shall be fined in any sum not less than five dollars, nor more than twenty dollars, together with the cost of suit, and all necessary expenses incurred by said trustees in disposing of such animals. Action to recover fines, costs, and expenses as herein provided, shall be brought upon complaint of said trustees before any justice of the peace, in the township in which such owner resides. Provided, that the dead bodies of such animals may be removed to a fertilizing establishment, if removed in a water-tight tank. (1891, March 24: 6923*a*; 88 v. 188.)

SEC. 251. **[Act to suppress dangerously contagious diseases of animals; expenses of quarantining such animals; duty of sheriffs and constables.]** That any person having in his possession or under his care, any animal which he knows or has reason to believe, is affected with a dangerously contagious or infectious disease, and does not, without unnecessary delay, make known the same to said board, or to some member thereof, or to the sheriff or constable of the proper county, to be by him communicated to said board; or any person or corporation who shall bring into this state, or sell or dispose of any animal, knowing the same to be affected as aforesaid, or any animal having been exposed to such contagion, within three months of such exposure, or shall move the animal so diseased or exposed from the quarantine to which it was ordered by the board of commissioners, or shall move any animal to or from any district in this state declared to be infected with such contagious disease, or shall bring into this state any animal of the kind diseased from any district outside of the state that may at any time be legally declared to be affected with such disease, without the consent of said board, except under such conditions as are or may be prescribed by said board, shall, upon conviction of either of the aforesaid offenses, be fined in any sum not exceeding five hundred dollars. And all proper expense incurred in the quarantining of animals under the provisions of this act, shall be paid by the owners thereof, and if the same is refused, after demand made by order

of the commissioners, an action may be brought to recover the same with costs of suit, which action may be in the name of the state of Ohio, for the use of the board of live stock commissioners. It shall be the duty of all sheriffs and constables to execute within their several counties all lawful orders of the said commissioners. (7468-29; 84 v. 90.)

SEC. 252. **[What cattle infected with disease shall not be brought into the state.]** No person shall bring into the state of Ohio any cattle infected with the disease commonly known as the "Texas or Spanish fever," or pleuro-pneumonia, rhinderpest, or other contagious diseases, or any cattle liable to impart such fever or disease to other cattle; but this section shall not affect common carriers who are not the owners of cattle. Whoever violates the provisions of this section shall be liable to any person injured by bringing such cattle into the state in the amount of any loss occasioned thereby, in addition to other penalties provided by law. (4210; 75 v. 522.)

SEC. 253. **[Presumptions in actions to recover damages for infection.]** Whenever any Texas or Cherokee cattle, liable to impart disease, are brought into the state, and any such disease as "Texas or Spanish fever" makes its appearance within sixty days, and infects other cattle that may have been on the same highway, common, or pasture ground traveled over by such Texas or Cherokee cattle with such disease, such fact shall be deemed and taken in actions to recover damages as prima facie evidence that such Texas or Cherokee cattle were infected with the disease known as the "Texas or Spanish fever," and that they imparted such disease; and the owner of such Texas or Cherokee cattle at the time they were brought into the state, and the owner of such cattle at the time the disease makes its appearance, shall be jointly and severally liable for any damages resulting from such disease. (4211; 75 v. 522.)

SEC. 254. **[Duties of carriers, and owners of stock-yards.]** All railway companies and owners of steamboats used in conveying live stock and owners of stock-yards and other premises that may be occupied by such stock, shall immediately upon discovering any contagious disease among stock occupying such cars, boats, yards, or other premises, take all possible measures to prevent such diseased stock from communicating the contagion to other stock, and shall moreover cause all such cars, boats, yards, and premises to be thoroughly disinfected before the same shall be occupied by other stock. Every corporation, and company, their officers and employes, or individuals violating the provisions of this section, shall pay a penalty not exceeding five hundred dollars, to be recovered in any court of competent jurisdiction, and shall also be liable to parties injured for all damages that may be occasioned thereby. (4212.)

SEC. 255. **[Selling diseased animals, allowing same to run at large or come into contact with other animals.]** Whoever, being the owner, or having the charge of any animal mentioned in section 6850, knowing the same to have any infectious or contagious disease, or to have been recently exposed thereto, sells, barters, or disposes of such animal, without first disclosing to the person to whom the same is sold, bartered or disposed of, that such animal is so diseased, or has been so exposed, as aforesaid, or knowingly permits such animal to run at large, or, knowing such animal to be diseased as aforesaid, knowingly permits the same to come into contact with any such animal of another person without his knowledge or permission, shall be fined not more than five hundred nor less than twenty dollars, or imprisoned not more [than] thirty days, or both. (6855; 64 v. 207.)

SEC. 256. **[Importing cattle infected with Spanish fever.]** Whoever, except common carriers not the owners of cattle transported by them, brings into this state any cattle infected with the disease commonly known as the Texas or Spanish fever, or cattle liable to impart such fever to other cattle, shall be fined not more than five hundred nor less than fifty dollass. (7003; 75 v. 522.)

SEC. 257. **[Proclamation prohibiting imoprtation of diseased live soctk.]** Whenever the governor of the state of Ohio shall have good reason to believe that any dangerous, contagious or infectious disease has become epidemic in certain localities in other states, territories or counties, or that there are conditions which render domestic animals of such infected districts liable to convey such disease, he shall by proclamation prohibit the importation of any live stock of the kind diseased into the state, except under such regulations as may be prescribed by the state board of live stock commissioners and approved by the governor. (7468-32; 83 v. 138.

SEC. 258. **[Appraisement and killing of diseased animals.]** When in the opinion of the commissioners provided for by the act to which this is supplementary, it shall be necessary to prevent the further spread of any dangerous, contagious or infectious disease among the live stock of the state, to destroy animals affected with, or which have been exposed to any such disease, it shall determine what animals shall be killed, and shall appraise or cause the same to be appraised by disinterested citizens as hereinafter provided, and cause such animals to be killed, and their carcasses to be disposed of as in the judgment of the commission will best protect the health of the domestic animals of the locality; provided, that no animal shall be appraised, except cattle affected with contagious pleuro-peneumonia, or cattle, sheep or swine affected with foot and mouth disease, or such as have been exposed thereto, nor shall any animal be slaughtered under the provisions of this act unless first examined by a competent veterinarian in the employ of the commission, and the disease with which it is affected or to which it has been exposed adjudged to be a dangerous and contagious malady. (7468-33; 83 v. 139)

SEC. 259. **[Compensation for animals destroyed.]** In case of destruction of any animal under the provisions of this act, the compensation to be made for the same by the state, shall be computed upon the basis of the actual value of the diseased animal, if any, at the time of slaughter; for any animal that has been kept in the same building or enclosure two-thirds of such value, and in case [of] other animals destroyed for the extinction of such disease, the full value of the same without reference to the suspicion of contagion; provided, that no compensation shall be made to any person who may have brought animals into the state affected with such contagious disease, or from a district in which such contagious disease existed, or who may have willfully concealed the existence of such disease among his stock or on his premises, or may [have] by willful neglect or purposely contributed to the spread of such contagion, and in appraising animals to be slaughtered as herein provided, no allowance shall be made on account of such animals being thoroughbred, or pedigree stock. (7468-34; 83 v. 139.)

SEC. 260. **[Appropriation to pay claims: how made.]** All claims against the state by owners of animals slaughtered under the provisions of this act, shall, when approved by the board of live stock commissioners, be reported by said commission to the governor, to be by him communicated to the legislature with the recommendation, if the matter is

approved by him, that the proper appropriations be made to pay such claims. (7468-35; 83 v. 139.)

[The driving of cattle from certain states forbidden during certain months.] WHEREAS, All cattle wintered in the states of Florida, South Carolina, North Carloina, Georgia, Alabama, Mississippi, Louisiana, Tennessee, Arkansas, Texas and the Indian territory, are infected with a germ which renders them capable, except during the frost of winter, of infecting northern cattle with a malady commonly known as "Texas fever," while they show no manifestation of disease; therefore,

SEC. 261. **[Conveyence by railway forbidden, except.]** *Be it enacted by the General Assembly of the State of Ohio*, That during the months of March, April, May, June, July, August, September and October, no cattle shall be permitted to be driven into this state from any of the above mentioned states or Indian territory, or that shall have been wintered therein, nor shall any person or company bring, or cause to be conveyed into this state by railway or otherwise, any such cattle under said conditions, except as specified in the next section of this act. (7468-36; 85 v. 83.)

SEC. 262. **[Unloading of certain cattle in certain months forbidden, except.]** Any railroad or other transportation company conveying into or through this state, or any stock-yard company receiving such cattle during the months aforesaid will not be permitted to unload the same in this state for any other purpose than to be fed and watered or for immediate slaughter, and in yards and premises especially provided for that purpose, into which northern cattle will not be permitted to enter. And the location and arrangement of the said yards and premises and the disinfection of the cars and quarters used in the transportation of such cattle shall be governed by the rules and regulations prescribed by the board of live stock commissioners. (1891, April 23: 7468-37; 88 v. 352.)

SEC. 263. **[Penalty.]** Any person or corporation that shall bring or cause to be brought or driven into this state, any cattle wintered in the states or territory above mentioned, or to be driven or conveyed otherwise than as herein specified, shall, upon conviction thereof, be fined in any sum not less than one hundred dollars, nor more than one thousand dollars, and shall, moreover, be liable for all damages that may be occasioned on account of other cattle being infected with said disease. (7468-38; 85 v. 83.)

SEC. 264. **[Duty of transportation companies; penalty for violation of such duty.]** It shall be the duty of all railway and other transportation companies bringing into and unloading in this state cattle, otherwise than as specified in section 7468-37 of this act, during the months above specified, to require a statement to be made in their shipping bills, showing in what state or territory the cattle shipped were wintered; and it shall be the duty of every railroad company bringing into this state cattle, which may unload such cattle for any other purpose than to be fed and watered as specified in section 7468-37 of this act, to leave at the office of such company nearest the point where such cattle may be unloaded, a copy for public inspection of the statement above required, showing where the same were wintered, and any company or corporation neglecting to comply with the provisions of this section, shall, upon conviction thereof, be fined in any sum not exceeding five hundred dollars. (7468-39; 85 v. 83.)

SEC. 265. **[Prosecution for offenses hereunder.]** Upon the re-

quest of the board of live stock commissioners it shall be the duty of the prosecuting attorney of any county in which the suit may be brought to begin and prosecute any action for the violation of the provisions of this act and the rules and regulations of the board of live stock commissioners. Proceedings against any railway company under this act may be had in any county in this state through which any portion of such company's road may pass, or in which its principal office may be situated; and process may be served by leaving a copy at the office of such company within such county. (1891, April 23: 7468–40; 88 v. 353.)

SEC. 266. **[Penalty for selling or failing to keep securely isolated horses, etc., affected with glanders.]** Any person owning or having in his charge any horse, mule or ass that he knows or has reason to believe is affected with the disease known as glanders or farcy, or that has been adjudged to be so affected by the state board of live stock commissioners, upon a report made to said board by a competent veterinary surgeon in their employ, after a careful examination of such animal, who shall sell or otherwise dispose of, or secrete the same, or shall fail to keep such animal securely isolated so that contact with other horses, mules or asses shall not be possible, shall, upon conviction of either of said offenses, be fined in any sum not exceeding five hundred dollars, and shall, moreover, be liable for all damages sustained by reason of the same. (7468–41; 85 v. 335.)

SEC. 267. **[Appraisal and payment of compensation in case of destruction of such animals by order of live stock commission.]** In case the live stock commissioners shall order the destruction of any animal affected with glanders or farcy in the chronic stage of the disease, which may be adjudged capable of rendering some service, the board may cause the animal to be appraised, and order such compensation to be paid out on the order of the live stock commissioners on the warrants of the auditor of state out of any funds in the treasury to the credit of the live stock commission, as in the judgment of the commissioners may be just, not exceeding its cash value; provided the horse was not diseased when passed in possession of the owner. (7468–42; 85 v. 335.)

SEC. 268. **[Penalty for suffering sheep afflicted with scab to run at large, or for selling same knowing, etc.]** Any person owning or having in charge any sheep affected with foot-rot or scab, who shall suffer the same to run upon any highway, common or other uninclosed ground, or shall sell such sheep, knowing or having reason to believe them to be diseased, without disclosing the fact to the purchaser, shall, upon conviction of either of said offenses, be fined in any sum not exceeding one hundred dollars, and be liable to parties injured for all damages sustained. (7468–43; 85 v. 335.)

SEC. 269. **[Permitting dogs to run at large; penalty for refusing to pay tax on dog; method of procedure against offender; killing of animals; etc.]** The owner or harborer of any animal of the dog kind, who permits such animal to be at large away from the premises occupied by him, unaccompanied by any person, shall be fined five dollars. Any person may kill any such animal so running at large, provided, that if any person in attempting to kill such animal so running at large, fails to kill and wounds the same, he shall not be liable to prosecution under section 6951, and any person the owner or harborer of any animal of the dog kind, who refuses to pay the tax provided for in section 2833 of the Revised Statutes, or fails to return as required by law to the assessors, for taxation, a dog owned or harbored by him, liable to be taxed, shall be deemed

guilty of an offense and shall be fined in any sum not exceeding five dollars, and the prosecuting attorney shall and without their securing or becoming liable for costs, upon the request of two or more property owners of the county in which he is prosecutor, and upon affidavit being filed with him charging a violation of this section, file with the probate judge his information as to the violation of the provisions of this act, and thereupon said court shall proceed against such person or persons as made and provided for by statutes, for the trial of criminal cases in probate court, and the judge of said court shall direct any constable or marshal, or may deputize any person to take possession of such animal, upon the arrest of the owner or harborer thereof, and shall after five days, and within ten days after conviction of the owner or harborer thereof, kill such animal, provided the tax, fine and costs or any part thereof remain unpaid, provided however, that any dog returned for taxation and the tax on which is paid when due shall be regarded as, and shall be property, and shall be entitled to the same protection, as other live stock, but no recovery shall be had for the malicious and unlawful injury or killing of such animal in excess of double the amount for which any such dog is listed for taxation. (1891, May 4: 7008; 88 v. 518.)

CRUELTY TO ANIMALS.

SEC. 270. [**Cruelty to animals.**] Whoever overdrives, overloads, tortures, torments, deprives of necessary sustenance, or unnecessarily or cruelly beats, or needlessly mutilates or kills, any animal, or impounds or confines any animal in any place and fails to supply the same during such confinement with a sufficient quantity of good, wholesome food and water, or carries in or upon any vehicle, or otherwise, any animal in a cruel or inhuman manner, or who keeps cows or other animals in any inclosure without wholesome exercise and change of air, or feeds cows on food that produces impure or unwholesome milk, or abandons to die any maimed, sick, infirm, or diseased animal, or being a person or corporation engaged in transporting live stock, detains such stock in railroad cars, or in compartments, for a longer continuous period than twenty-four hours after the same are so placed, either within or beyond this state, without supplying the same with necessary food, water and attention, or permits such stock to be so crowded together as to overlie, crush, wound, or kill each other, shall be fined not more than two hundred nor less than five dollars, or imprisoned not more than sixty days, or both; provided, that all fines collected for violations of this section, shall be paid to the society or association for the prevention of cruelty to animals, if any such society or association is organized in such township, village or city, where such violation occurred. (6951; 78 v. 134.)

DIVISION XIII.

Relating to Vital Statistics.

SEC. 271. **[Certificate of marriage to be transmitted to probate judge and recorded.]** A certificate of every marriage hereafter solemnized, whether authorized by publication of bans in the congregation, or by license issued by a probate judge, or after notice given to the congregation, signed by the justice, mayor or minister solemnizing the same, or clerk of the monthly meeting shall be transmitted to the probate judge in the county wherein the marriage license was issued, or the congregation wherein said bans were published is situated, or marriage was celebrated, within three months thereafter, and recorded by such probate judge; every justice, mayor, or minister, or clerk of the monthly meeting, failing to transmit such certificate to the probate judge in due time, shall forfeit and pay fifty dollars, and if the probate judge shall neglect to make such record, he shall forfeit and pay fifty dollars to and for the use of the county. (6391; 86 v. 208.)

SEC. 272. **[Probate judge shall keep a record of births and deaths.]** The probate judge shall keep a record of the births and deaths reported to him, as hereinafter provided; the births shall be numbered, recorded, and alphabetically indexed in the order in which they are received, and the record shall state, in separate columns, the date of making the record, the date and place of birth, the name, sex, and color of the child, the maiden name of the mother, and the name of the father of the child, and the residence of the parents, as fully as the same are reported; the deaths shall be likewise numbered, recorded, and indexed, and the record thereof shall state in separate columns, so far as the same is reported, the date and place of death, name and surname of the deceased, condition (whether single, married, or widowed), age, place of birth, occupation, names of parents (when an infant without name), cause of death, color, and last place of residence of such deceased person, and the date of making the record. (6395; 66 v. 69.)

SEC. 273. **[Statistics to be obtained annually by assessors; duties of physicians and midwives in certain cities; of clergymen and sextons.]** It shall be the duty of the assessors of the several townships and wards of each county of this state, to obtain, annually, the foregoing statistics, at the time each assessor shall make the assessment of his respective township or ward for the year ending the last of March, preceding each annual assessment, and report the same to the probate judge of his county, at the time of his regular report to the [county] auditor; and at the time of submitting his report to the probate judge, he shall state upon oath that he has made diligent inquiry in order to obtain the number of births and deaths, and other information required by this chapter, in his township or ward, respectively; and if any assessor in this state shall fail or refuse to make such report, or to make and file the affidavit required by this title, the auditor of his county shall withhold his order until the law

has been complied with, to the satisfaction of the probate judge, except in counties containing cities of the first class, having a population of one hundred and fifty thousand and over, in which counties it shall be the duty of the 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, sex, color of the child, the names and residence of the parents; and physicians who have attended deceased persons in their last illness, clergymen who have officiated at the funeral, and sextons who have buried deceased persons, shall keep a registry of the name, age, and residence of such deceased persons at the time of their death; it shall be the duty of the physicians and professional midwives to report fully the births registered by them, as required by this chapter, to the judge of the probate court of the county every three months, viz, on or before the second Monday of the months of January, April, July, and October of each year; in case there is no physician or midwife in attendance at any birth, then the parents shall be required to report to the probate judge within one month; and physicians, clergymen, and sextons shall likewise report fully the deaths registered by them, as required by this chapter, to the judge of the probate court of the county, every three months, as above designated; and any person who shall neglect or refuse to comply with, or violate the provisions of this chapter, shall forfeit and pay for each offense the sum of ten dollars, to be sued for and recovered in the name of the state of Ohio, and the penalty, when recovered, shall be paid over, one-half to the school fund, and one-half to the party making complaint thereof. (6396; 68 v. 49.)

SEC. 274. [**Duty of probate judge as to blanks for statistics,**] It shall be the duty of the probate judge to furnish to each assessor of the several townships or wards of his county, annually, and to other persons making such report, a sufficient number of properly ruled blanks, which shall be paid for out of the county treasury, upon which to make such report to said probate judge. (6397; 66 v. 69.)

SEC. 275. [**Probate judge to keep record, ahd transmit abstract to secretary of state.**] It shall be the duty of the probate judge, receiving the reports as above specified, within fifteen days after the receipts thereof, to record the same in a book to be provided by the county commissioners for that purpose, and to transmit an abstract thereof, on or before the first Monday of August, every year, to the secretary of state, in such form as shall be prescribed by that officer, who shall file the same in his office, to be used by him in his annual report to the legislature. (6398; 73 v. 203.)

SEC. 276. [**Evidence in courts.**] Every original entry, made as above described, and a copy of such entry duly certified over the seal of said court, shall be received in all courts and places as prima facie evidence of the facts therein stated, and said records shall be open to the inspection of the public at all proper hours. (6399; 66 v. 69.)

DIVISION XIV.

RELATING TO

Contagious Diseases; Vaccination; Cemeteries; Jails; Instruction in Hygiene; Protection of Children; Enforcement of Ordinances.

CONTAGIOUS AND INFECTIOUS DISEASES.

SEC. 277. **[On complaint of infectious disease township clerk shall call a meeting of trustees, etc.]** When complaint is made to the clerk of a township or a reasonable belief exists that the small-pox or any other infectious or loathsome disease prevails in any locality or house therein or in any adjoining township, and not within the limits of a city or incorporated village, said clerk shall call a meeting of the board of trustees of the township, and the board, if satisfied after investigation that such action is necessary, shall restrain all persons except physicians and necessary attendants from visiting or frequenting such house or locality within the township, or coming into such township from an infected locality in any other township, until the danger of infection or contagion therefrom has ceased, and they shall cause a copy of said order to be posted up in at least three of the most public places in the township. (1462; 79 v. 50.)

SEC. 278. **[Trustees to make regulations to prevent spread of disease.]** The board of trustees shall have power to make and enforce all necessary health regulations to prevent the spread of small pox or any other loathsome disease within the township, and restrain persons convalescing from small pox or knowing themselves to have been exposed thereto from coming from infected localities into such townships; and any person violating such order or health regulation after the same has been published or posted up as provided in the next preceding section of this act, shall be liable to a penalty of not less than ten nor more than fifty dollars and costs, to be recovered by said board of trustees in an action before any justice of the peace in said township; said penalties, when collected, to be paid to the township treasurer for township purposes. (1463; 79 v. 50.)

SEC. 279. **[Board may make and enforce rules for vaccination.]** The board of each district may make and enforce such rules and regulations to secure the vaccination of, and to prevent the spread of small-pox among, the pupils attending or eligible to attend the schools of the dis-

trict, as in its opinion the safety and interest of the public require; and the boards of health and councils of municipal corporations, and the trustees of townships, shall, on application of the board of education of the district, provide at the public expense, without delay, the means of vaccination to such pupils as are not provided therewith by their parents or guardians. (3986; 69 v. 22.)

DEAD BODIES.

SEC. 280. **[Regulating the burial of the dead in villages.]** That villages shall not have the power to prohibit the interment of the dead in any cemetery within such village, unless it shall be satisfactorily shown that such interring is detrimental to the health of its inhabitants and general prosperity of such villages. (8223-147; 86 v. 179.)

SEC. 281. **[Penalty for corpse nuisance.]** If the sexton or other person in charge of a township, or other cemetery suffers the dead to remain in any vault or other receptacle until the same become offensive, he shall be liable, on the complaint of any person before a justice of the peace of the township, to a fine of not over twenty dollars, and an additional penalty of five dollars for every day, after the fine aforesaid, that the nuisance is continued. (1470; 54 v. 187.)

SEC. 282. **[May be removed, etc.]** The trustees shall, when the dead laid in any vault or other receptacle become offensive, on complaint of any householder of the township, issue an order forthwith to the sexton or other person in charge, to have the same immediately interred; and in case the interment is neglected for three days after the complaint, any justice of the peace of the township may issue his written order to any householder of the township to inter the dead at the expense of the trustees, and shall allow a reasonable charge for the service aforesaid. (1471; 54 v. 187.)

JAILS.

SEC. 283. **[Jailer suffering jail to become unclean, etc.]** A sheriff, or jailer, or other person, having the care and custody of any jail, who suffers the same to become foul or unclean, so that the health of any prisoner may be endangered,or suffers any prisoner, sentenced to imprisonment for any criminal offense, to be dealt with in a manner less strictly than intended by the sentence, shall be fined not more than one hundred dollars. (6916; 29 v. 144)

SEC. 284. **[The grand jury to visit the jail.]** The grand jurors shall, once at each term of the court, visit the county jail, examine its state and condition, and inquire into the discipline and treatment of the prisoners, and their habits, diet, and accommodations; and they shall report to the court, in writing, whether the rules prescribed by the judge have been faithfully kept and observed, and whether any provision of law for the regulation of county jails has been violated, pointing out particularly in what such violation, if any, consists. (7209; 66 v. 300.)

INSTRUCTION IN HYGIENE IN THE PUBLIC SCHOOLS.

SEC. 285. **[Instruction as to effect of alcoholic drinks and narcotics on the human system required in public schools; provision therefor, etc.]** The nature of alcoholic drinks and narcotics, and their effects on the

human system in connection with the subject of physiology and hygiene, shall be included in the branches to be regularly taught in the common schools of the state, and in all educational institutions supported wholly or in part by money received from the state; and it shall be the duty of boards of education, and boards of such educational institutions, to make provisions for such instruction in the schools and institutions under their jurisdiction, and to adopt such methods as shall adapt the same to the capacity of the pupils in the various grades therein; but it shall be deemed a sufficient compliance with the requirements of this section if provision be made for such instruction orally only, and without the use of text-books by the pupils. (8092-33; 85 v. 213.)

SEC. 286. [**Examination required of teachers.**] No certificate shall be granted to any person on or after the first day of January, 1890, to teach in the common schools, or in any educational institution supported as aforesaid, who does not pass a satisfactory examination as to the nature of alcoholic drinks and narcotics and their effcts upon the human system. (8092-34; 85v. 213.)

SEC. 287. [**Penalty for refusal or neglect to give such instruction.**] Any superintendent or principal of, or teacher in any common school or educational institution supported as aforesaid, who willfully refuses or neglects to give the instruction required by this act, shall be dismissed from his or her employment. (8092-35; 85 v. 213.)

PROTECTION OF CHILDREN.

SEC. 288. [**Employing children under fourteen years in shows, etc.**] Whoever takes, receives, hires, employs, uses, exhibits, or in any manner, or under any pretense, sells, apprentices, gives away, lets out, or otherwise disposes of, to any person, any child under the age of fourteen years, for or in the vocation, occupation, service, or purpose of singing, playing on musical instruments, rope or wire walking, dancing, begging, or peddling, or as a gymnast, contortionist, rider, or acrobat, or for or in any obscene, indecent or immoral purpose, exhibition, or practice, or for or in any business, exhibition, or vocation injurious to the health or dangerous to the life or limbs of such child, or causes, or procures, or encourages, any such child to engage therein, or causes or permits any such child to suffer, or inflicts upon it, unjustifiable physical pain or mental suffering, or willfully causes or permits the life of any such child to be endangered, or its health to be injured, or such child to be placed in such situation that its life may be endangered, or its health injured, or has in custody any such child for any of the purposes aforesaid, shall be fined not more than two hundred dollars, or imprisoned not more than six months or both. (6984; 73 v. 219.)

SEC. 289. [**Penalty for injuring or neglecting children.**] Whoever tortures, torments, cruelly, or unlawfully punishes, or willfully, unlawfully and negligently deprives of necessary food, clothing or shelter, any person and whoever having the control of, or being the parent or guardian of any child or children under the age of sixteen years willfully abandons such child or children, or tortures, torments, cruelly or unlawfully punishes, or willfully, unlawfully, and negligently deprives of necessary food, clothing or shelter, such child or children shall be fined not more than two hundred dollars, nor less than ten dollars, or imprisoned for not more than six months or both. (6984*a*. 83 v. 27.)

SEC. 290. [**Prohibiting sale of cigarettes and tobacco to minors.**] Whoever sells, gives or furnishes to any minor under fifteen years of age, any cigarette, cigar or tobacco, shall be fined not less than five dollars nor more than twenty-five dollars, or imprisoned not more than thirty days, or both. (6986–1; 85 v. 169.)

SEC 291. [**Intoxicating liquors: unlawful for minor to enter place where sold; exceptions.**] It shall be unlawful for any minor to enter any saloon, beer-garden or other place where intoxicating liquors are sold or offered for sale, except in the discharge of some lawful business or accompanied by a parent or guardian. (1891, April 28; 88 v. 409.)

SEC. 292. [**Penalty.**] Any person so offending shall, for the first offense upon conviction thereof, be fined not more than five dollars ($5.00), nor less than one dollar ($1.00), and for any subsequent offense shall, upon conviction or convictions thereof, be fined not more than twenty-five dollars ($25.00), nor less than five dollars ($5.00), or be imprisoned not more than ten days (10), or both. (1891, April 28; 88 v. 409.)

SEC. 293. [**Penalty for permitting minor to loiter where sold; employment of minors.**] The keeper or person having in charge any saloon, beer garden, or other place where intoxicating liquors are sold or offered for sale, who shall knowingly permit any minor less than eighteen years of age, except as provided in section one, to enter and remain in said place where intoxicating liquors are sold or offered for sale as aforesaid, except members of his own family, shall be fined not more than than twenty-five dollars nor less than five dollars, or be imprisoned not more than ten days, or both. Nothing herein contained shall be construed as prohibiting the employment of any minor to do or perform labor in any part or department of any building, other than the room wherein the saloon or other place in said building wherein intoxicating liquors are sold or offered for sale. (1891, April 28; 88 v. 409.)

SEC. 294. [**Drug stores.**] Nothing in this act, shall be construed to prohibit minors from entering the drug store of any druggist doing business under the laws of this state, and who sells intoxicating liquors only on physicians' prescription. (1891, April 28; 88 v. 410.)

ENFORCEMENT OF ORDINANCES.

SEC. 295. [**Final jurisdiction under ordinances.**] In villages, the mayor shall have final jurisdiction to hear and determine any prosecution for the violation of an ordinance of the corporation, unless imprisonment is prescribed as part of the punishment. (1823; 69 v. 169.)

SEC. 296. [**How ordinances, etc., enforced.**] By-laws and ordinances of municipal corporations may be enforced by the imposition of fines, forfeitures, and penalties, on any person offending against any such by-law or ordinance; and the fine, penalty, or forfeiture may be prescribed in each particular by-law or ordinance, or by a general by-law or ordinance made for that purpose; and the municipal corporation shall have power to provide, in like manner, for the prosecution, recovery, and collection of such fines, penalties, or forfeitures. (1861; 66 v. 167.)

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