

BILL DRAWN BY THE COMMISSION, AND RECOMMENDED TO THE LEGISLATURE FOR ENACTMENT.

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[See this Report, pp. 43-55, 109-119, 138, 242, and 284.]

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An Act for the Promotion of Public and Personal Health.

*BE it enacted by the Senate and House of Representatives, in General Court assembled, and by the authority of the same, as follows :*

SECT. 1. His Excellency the Governor, with the advice and consent of the Council, shall appoint seven persons, who, together with the Governor, and the Secretary of the Board of Education, *ex officio*, shall constitute and be denominated the General Board of Health ; and the persons so appointed shall hold their offices for the term of seven years: *provided*, that the person first named in said Board shall go out of office at the end of one year, the person next named shall go out of office at the end of two years, and so of the remaining members, one retiring each year, and in the order in which they are named, until the whole Board be changed. And the Governor, with the advice and consent of the council as aforesaid, shall fill all vacancies in said Board, which may occur from death, resignation or otherwise. Any member who resigns, or whose term of office has expired, may, if duly qualified, be reappointed.

SECT. 2. The said Board shall meet in January, April, July, and October, in each year, and at such other times as they may deem necessary or expedient.

SECT. 3. They shall appoint a competent person to be the Secretary of the Board, and shall also appoint such other persons, or employ such temporary assistance, as may be necessary to carry into execution the sanitary laws of the State, under their superintendence; and every such person so appointed or employed shall hold his office during the pleasure of the Board. The Board shall fix the compensation of all persons so appointed or employed: *provided*, that the members of said Board shall receive no compensation for their own services. The salary of the Secretary shall be                    hundred dollars per annum, which, together with his incidental expenses and those of the Board, while in the discharge of their official duties, shall be paid by the State, on certificates signed by the chairman and Secretary.

SECT. 4. The said Board shall perform the following duties:—

1. They shall have the general superintendence of the execution of the sanitary laws of the State.

2. They shall direct the Secretary of the Board in the discharge of his duties.

3. They shall consider and decide upon sanitary questions, submitted to them by the State, by cities, by towns, and by the Local Boards of Health.

4. They shall advise the State as to the location and erection of public buildings, and as to the sanitary regulations of public institutions.

5. They shall, at least once in each year, visit and ascertain the sanitary condition of the several public charitable institutions of the State.

6. They shall prepare and furnish, at the expense of the State, to the several Local Boards of Health, all necessary blanks for the purposes of this act.

7. They shall, from time to time, issue instructions to the several Local Boards, as to their powers and duties,

and shall suggest and recommend local sanitary rules and regulations.

8. They shall superintend each enumeration of the inhabitants of the State, and the preparation of the abstracts of the same, authorized by the constitution and laws.

9. They shall lay before the Legislature, annually, in a printed form, a report, containing an abstract of their proceedings, and of their receipts and expenditures, together with the Report of the Secretary of said Board; and shall accompany the same with such remarks, as their observation, experience, and reflection may suggest, as to the sanitary condition of the State, its institutions, and its inhabitants; and recommend the adoption of such useful sanitary measures, as in their judgment may lead to improvement.

SECT. 5. They may expend fifty dollars, annually, in the purchase of books and works, relating to public health and to the causes and prevention of disease; which books and works, together with such other books, works, and documents, as may be obtained in exchange or by donation, shall be kept in the office of the Secretary of the Board, and be the property of the State.

SECT. 6. The Secretary, under the general direction of the Board, shall perform the following duties:—

1. He shall keep full and accurate accounts of the receipts and expenditures of the Board.

2. He shall, when directed by the Board, make a sanitary survey of a particular town, or part of the State; and collect information as to its sanitary condition.

3. He shall have all the authority by law given to, and perform all the duties imposed upon, the Secretary of State, relating to the registration and return of births, marriages, and deaths.

4. He shall superintend each enumeration of the in-

habitants of the State, and the preparation of the abstracts of the same, authorized by the constitution and laws.

5. He shall arrange the official written and printed reports and documents, obtained from Local Boards of Health and other public associations, and from private individuals; and cause them to be bound and indexed for convenient reference. And he is authorized to exchange the printed documents of the Board for other sanitary works, printed in this and in foreign countries.

6. He shall perform such other duties appertaining to his office, as may be required by the Board.

7. He shall prepare and lay before the Board, annually, in a printed form, a report containing an abstract of the information obtained.

8. He shall diffuse, as far as practicable, throughout the Commonwealth, information relating to the sanitary condition of the State and its inhabitants; to the end that the laws of health and life may be better understood, the causes of disease ascertained and removed, the length of human life extended, the vital force and productive power increased, and the greatest amount of physical improvement and happiness attained and enjoyed.

SECT. 7. The said Secretary is authorized and may, with the approval of the Board, employ such assistance as shall be necessary to enable him to discharge the duties of his office.

SECT. 8. The mayor and aldermen of each city, and the selectmen of each town, shall appoint three, five, or seven persons, resident citizens thereof, who shall constitute and be denominated the Board of Health of the Town, or the Local Board of Health. The mayor of the city, the chairman of the selectmen of the town, and the

registrar of births, marriages and deaths, or the town clerk where no such registrar exists, shall be, *ex officiis*, members of said Board. And the persons so appointed shall take an oath faithfully to perform the duties of their office; and they shall hold their said offices for three years, if the said Board is fixed at and consists of three members, as aforesaid; or for five years, if it is fixed at and consists of five members; or for seven years, if it is fixed at and consists of seven members: *provided*, that the person first named in said Board shall go out of office at the end of one year, the person next named shall go out of office at the end of two years, and so of the remaining members, one retiring each year and in the order in which they are named, until the whole Board be changed. And the mayor and aldermen, or the selectmen as aforesaid, shall fill all vacancies in said Board, which may occur from death, resignation or otherwise. Any member who resigns, or whose term of office has expired, may, if duly qualified, be reappointed.

SECT. 9. The said Local Boards shall carry into execution, within their respective jurisdictions, the sanitary laws of the State, and the orders of the General Board of Health; and may, if need be, in the discharge of their duty, examine persons under oath, which oath they are authorized to administer. They shall endeavor, as far as practicable, to prevent disease and save life, by removing the causes of disease and mortality; and promote health and prolong life, by adopting and carrying into execution useful sanitary measures, rules and regulations.

SECT. 10. The said Local Boards shall meet in January, April, July, and October, in each year, and at such other times as they may deem necessary or expedient.

SECT. 11. The Board of Health of any town of more than ten thousand inhabitants, may expend forty dollars

annually, and of any town of less than ten thousand inhabitants, twenty dollars, annually, in the purchase of books or works relating to public health, and to the causes and prevention of disease; which books and works, together with such other books, works, and documents as may be obtained in exchange or by donation, shall be kept in the office of the Secretary of the Board, and be the property of the town; *provided*, that in estimating the number of inhabitants for the purposes of this act, the last census, national or state, shall be the basis of computation.

SECT. 12. The said Board shall, from time to time, appoint one of their number to be Secretary; and also shall, if need be, appoint another competent member to be Medical Health Officer; and another to be Surveyor. And they shall appoint such other officers, not of the Board, and employ such other persons, as may be necessary to carry into execution the sanitary laws of the State, and the sanitary ordinances and regulations of the town. They shall fix the compensation of each person so appointed and employed, subject to the approval of the mayor and aldermen of the city, or the selectmen of the town: *provided*, that said compensation shall not exceed the amount usually paid for similar services in the town. And every such officer and person so appointed and employed shall hold his office during the pleasure of the Board.

SECT. 13. It shall be the duty of the Secretary to keep a record of the proceedings of the Board, and an accurate account of their receipts and expenditures, and to perform such other services as usually pertain to the office; and to preserve and transmit to his successor in office, all records, written and printed documents, papers and books, belonging to the office or to the Board.

SECT. 14. It shall be the duty of the Medical Health Officer to ascertain the existence and prevalence of sickness and diseases of different kinds, and particularly of zymotic, or epidemic, endemic and contagious diseases; to observe their prevalence and mortality in each year, and each season of the year, as compared with other years and seasons; in each district of the town, as compared with other districts or with other places; and in each class of persons, as compared with other classes; and to endeavor to ascertain any atmospheric, local, or personal causes of the temporary increase or decrease of disease and mortality. He shall point out local nuisances or personal causes likely to produce disease, or otherwise to injure the health of the inhabitants; suggest remedies; perform such other services, of a like nature, as the Board may require; and make reports on all these matters to the said Board.

SECT. 15. It shall be the duty of the Surveyor to prepare, under the direction and for the use of the Board, and for public inspection, a map of the town, or any section of the town, on which shall be marked, as far as practicable, the location, level, and grade, of roads, streets, lanes, and courts; plans for drainage and sewerage; the natural and artificial mill and other ponds; and any localities in which unfavorable sanitary influences are known to exist; and perform such other services of a similar nature, as may be required by the Board; and he shall report to the said Board on all these matters.

SECT. 16. The said Local Boards of Health are authorized to make, and whenever in their judgment the public health and safety or the public good will be promoted thereby, they shall make rules and regulations, not inconsistent with the constitution and laws of the State, for either or any of the following purposes:

1. For ascertaining the cause or causes of the death of every person who dies in the town.
2. For ascertaining, from time to time, the prevailing diseases of the town ; and their atmospheric, local, and personal causes.
3. For ascertaining the prevalence and amount of sickness, among persons of different classes and occupations, and among scholars attending the public schools.
4. For preventing or mitigating diseases, especially zymotic, or epidemic, endemic, and contagious diseases.
5. For affording medical relief to persons afflicted or threatened with disease, and especially with epidemic, endemic or contagious diseases.
6. For the periodical or special vaccination of the inhabitants.
7. For removing, destroying, and preventing nuisances, dangerous to the public health.
8. For restraining and removing persons and articles, infected with the small-pox or other contagious disease.
9. For the establishment, location, and management of hospitals, for the accommodation of persons sick with contagious or malignant diseases.
10. For the construction and management of sinks, ash-pits, privies, cesspools, drains, and common sewers ; and for the removal of house-dirt, offal, night-soil, street-dirt, and other filth.
11. For cleansing and purifying any vessel, building, lot, or other place ; or any article in a condition endangering the public health.
12. For the location, and for preventing the location, of pigsties, slaughter-houses, chemical works, and any trade or employment, offensive to the inhabitants or dangerous to the public health.
13. For the warming and ventilation of schoolhouses and other public buildings ; and for preventing the sani-

tary evils which arise from over-crowded boarding or lodging-houses, and from cellar-dwellings.

14. For preventing the sale of any article of food or drink, unwholesome or dangerous to the public health.

15. For preventing or mitigating the sanitary evils, arising from the sale of intoxicating liquors; and from haunts of dissipation.

16. For preventing the sale of adulterated medicines, drugs and liquors, dangerous to the public health.

17. For the sanitary management of cemeteries, and other burial-places; and for the interment of the dead.

18. For the public registration of births, marriages and deaths in the town, required by the laws of the State.

19. For executing any sanitary order of the General Board of Health relating to the town or its inhabitants.

SECT. 17. The Board of Health of any seaport town may establish the quarantine to be performed by any vessel arriving within the harbor of the town; and may make such quarantine regulations, relating to any vessel, and to the passengers or articles on board of the same, as they shall judge necessary for the health and safety of the inhabitants;—or two or more towns may, at their joint expense, and for the common benefit, make and establish such regulations. And any Board of Health may examine, under oath, the master or any seaman or person on board any vessel, suspected of coming from a sickly port, or of having sickness on board during the voyage, or of having goods or articles on board which may occasion sickness. And all expenses incurred on account of any person, vessel, or goods, under any quarantine regulations, shall be paid by such person, or the owner of such vessel or goods, respectively.

SECT. 18. When any householder shall know that any person within his family and when any physician shall know that any person whom he visits, is sick with

the small-pox, or any other contagious or malignant disease, dangerous to the public health, such householder and such physician shall immediately give notice thereof to the Board of Health of the town, in such manner as they shall prescribe.

SECT. 19. Notice shall be given by the Local Boards of Health of all regulations made by them, by publishing the same in some newspaper of the town, or where there is no such newspaper, by posting them up in some public place or places of the town; and such notice of such regulations shall be deemed legal notice to all persons.

SECT. 20. It shall be the duty of every magistrate and other civil officer, and of every inhabitant of the State, to observe and assist in carrying into execution the orders, rules and regulations of the General and Local Boards of Health, and to aid the said Boards and their authorized agents, in the performance of their respective duties.

SECT. 21. The said Boards of Health, if it shall appear to them necessary or expedient, are authorized to require the sheriff of the county or his deputy, the marshal of the city, or any constable of the town, to perform any of the following duties :

1. To remove or destroy any article, decayed, putrid, or otherwise dangerous to the public health; or any other nuisance or cause of disease.

2. To remove any person or article infected with contagious or malignant disease, from one place to another.

3. To break open and enter in the day time any house, shop, or other building, or place, containing a person or article infected with small-pox or other contagious disease; or containing any nuisance dangerous to the public health.

4. To impress and take up convenient houses, lodging, nurses, attendants and other necessities for the accommodation, safety, and relief of the sick.

SECT. 22. The charges for removing and cleansing any articles, and of securing the same, and of cleansing any house or other place, shall be paid by the owners thereof, at such rates and prices as shall be fixed by the Board of Health, under whose direction the same was done.

SECT. 23. Whenever the sheriff of the county or his deputy, the marshal of the city, any constable of the town, or other officer, shall impress any men, or shall use any house, store or other place, or any property, for the accommodation or benefit of the sick, or for the storage of infected articles, as provided for in this act, the several parties interested shall be entitled to a just compensation therefor, to be paid by the town for which such persons have been employed, or for which such property has been used.

SECT. 24. All necessary expenditures incurred by any Local Board of Health, in the discharge of their official duties, shall be paid by their town or city, after being audited by the Secretary of the Board, and certified to be correct by a majority of the other members: *provided*, that in making any such expenditure of more than fifty dollars, in towns of less than two thousand inhabitants; and of more than one hundred dollars, in towns of more than two thousand and less than five thousand inhabitants; and of more than five hundred dollars, in towns of more than five thousand inhabitants, the said Board shall first obtain the approval of the selectmen of the town, or the mayor and aldermen of the city.

SECT. 25. Whenever any malignant or contagious disease shall prevail as an epidemic in any town, the Local Board of Health shall notify the General Board of Health of the same; and the said General Board of Health shall adopt, recommend, or carry into execution,

such measures of prevention or mitigation, as they shall deem necessary or expedient.

SECT. 26. Any person who shall violate any order or regulation, prescribed in the sixteenth and eighteenth sections of this act, or who shall obstruct any member of any Local Board of Health, or any person acting under their authority, in the discharge of his duty, shall be liable to a penalty not exceeding one hundred dollars for each offence; and any person, who shall violate any of the provisions of the seventeenth and twenty-first sections, shall be liable to a penalty not exceeding five hundred dollars for each offence.

SECT. 27. Each of the said Local Boards of Health shall, in the month of January, annually, prepare and submit to the town, or to the city council, at the next meeting thereafter, a written report, containing an abstract of the proceedings and of the receipts and expenditures of the Board, during the next preceding year ending December thirty-first; and shall accompany the same with a statement of such facts and observations, as will exhibit the sanitary condition of the town and its inhabitants; and shall recommend such measures of improvement, as they may deem necessary or expedient; and they shall transmit a copy of their report, in a written or printed form, to the General Board of Health. And all reports printed by order of towns shall be in octavo form, on paper and page of uniform size, similar to the public documents of the State, and convenient for binding; and all written reports shall be on letter paper of common size and convenient for binding.

SECT. 28. Any town, which shall neglect to appoint a Board of Health annually, as required by this act, shall be liable to a penalty not exceeding one hundred dollars for each neglect; and the Board of Health of any town which shall neglect to make and transmit the report

required by the twenty-seventh section hereof, shall be liable to a like penalty.

SECT. 29. All petitions and complaints concerning sanitary matters, shall be made and presented, in a written or printed form, to the Local Board of Health, or their authorized agent; and the object of all such petitions shall be immediately considered and acted upon; and it shall be the duty of every person who knows of the existence of any cause of disease, or of any matter which may properly come under the cognizance of the Board, to make it known.

SECT. 30. Whenever any nuisance, filth, or cause of disease shall be found on private property, the Board of Health shall order the owner, or occupant thereof, to remove the same at his own expense, within twenty-four hours, or such other time as they shall deem reasonable, after notice served, as provided in the succeeding section; and if the owner or occupant shall neglect so to do, he shall forfeit a sum not exceeding twenty dollars, for every day during which he shall knowingly permit such nuisance or cause of disease to remain after the time prescribed, as aforesaid, for the removal thereof.

SECT. 31. The order mentioned in the preceding section shall be communicated by a written notice, served personally upon the owner or occupant, or his or her authorized agent, by any person competent to serve a notice in a civil suit; or such notice may be left at the owner's, occupant's, or agent's last and usual place of abode, if the same be known, and is within the State; and if the owner's, or agent's residence is unknown, or without the State, the premises being unoccupied, then such notice may be served by posting up the same on the premises, or by publishing the same in such manner, and for such length of time, as the Local Board of Health shall deem expedient.

SECT. 32. If the owner or occupant shall not comply with the order above mentioned, the Board of Health may cause the said nuisance, filth, or cause of disease, to be removed or destroyed, and all expenses incurred thereby shall be paid by the said owner or occupant, or by such other person as shall have caused or permitted the same, if such owner or occupant, or such other person shall have had actual notice from the Board of Health, of the existence of said nuisance, filth, or cause of disease.

SECT. 33. All expenses incurred by any town or city in the removal of nuisances, or for the preservation of the public health, and which are recoverable of any private person or corporation, by virtue of any provisions of law, may be sued for and recovered in an action of debt, before any court having jurisdiction.

SECT. 34. Any fines and forfeitures recovered under the twenty-eighth section of this act, shall enure to the use of the State; and all other fines and forfeitures incurred under the general laws, or the special laws applicable to any town or city, or the ordinances, by-laws, and regulations of any town, or of the Board of Health of any town, relating to health, shall enure to the use of such town; and all such fines may be recovered by complaint in the name of the treasurer, before any justice of the peace of the county, or police court of the town or city, in which the offence may have been committed.

SECT. 35. Any person injured, either in his comfort or the enjoyment of his estate, by any nuisance, may have an action on the case, for the damage sustained thereby; in which action the defendant may plead the general issue and give any special matter in evidence.

SECT. 36. The court of common pleas, or any one of the justices thereof, in term time or vacation, may, in all cases, either before or pending a prosecution, for a com-

mon nuisance, affecting the public health, issue an injunction to stay or prevent the same, until the matter shall be decided by a jury or otherwise; and may issue all such other writs and processes, and make all such orders and decrees according to the course of proceedings in chancery, as may be necessary or proper to enforce such injunction; and may dissolve the same when the court or any one of the said justices shall think it proper.

SECT. 37. Persons may be complained of, and indicted by the grand jury having jurisdiction, for a common nuisance, injurious to the public health; and when any person shall be convicted on such indictment, the court may, in their discretion, order the nuisance to be removed, or destroyed, at the expense of the defendant, under the direction of the Board of Health of the town where the nuisance is found; and the form of the warrant to the sheriff, or other officer, may be varied accordingly.

SECT. 38. The Local Boards of Health shall have all the authority, and may perform all the duties imposed by law upon justices of the peace, by "an act in addition to an act to provide for the confinement of idiots and insane persons," passed April sixth, eighteen hundred and thirty-eight.

SECT. 39. The word "town," in this act, may be construed to include all cities except in cases in which such construction would be repugnant to any provision herein contained.

SECT. 40. All acts and parts of acts inconsistent with the provisions of this act, are hereby repealed.