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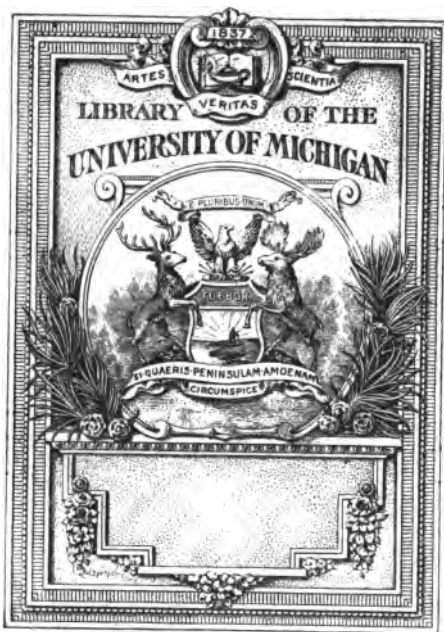
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NEW YORK STATE DEPARTMENT OF LABOR

ELEVENTH ANNUAL REPORT

OF THE

COMMISSIONER OF LABOR

FOR THE TWELVE MONTHS ENDED SEPTEMBER 30

1911

TRANSMITTED TO THE LEGISLATURE FEBRUARY 5, 1912, AS PART OF THE
ELEVENTH REPORT OF THE DEPARTMENT OF LABOR



ALBANY
STATE DEPARTMENT OF LABOR
1912

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FEBRUARY 5, 1911.

ELEVENTH ANNUAL REPORT

OF THE

COMMISSIONER OF LABOR.

STATE OF NEW YORK:

DEPARTMENT OF LABOR,

ALBANY, *February 5, 1912.*

To the Legislature:

Pursuant to law, the annual report of the Commissioner of Labor for the year ended September 30, 1911, is herewith submitted. Appended thereto will be found the general reports of certain bureaus of this Department. The latter will be supplemented later by more detailed reports.

Respectfully,

JOHN WILLIAMS,

Commissioner.

J. W. Williams 3-7-12 g

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ANNUAL REPORT
OF THE
COMMISSIONER OF LABOR.

REPORT OF THE COMMISSIONER OF LABOR.

To the Legislature:

Pursuant to law, I herewith submit my annual report for the year ended September 30, 1911. As usual there are appended hereto the general reports of certain bureaus in the Department (to be supplemented later by more detailed reports) together with an index of bills relating to labor introduced in the last session of the Legislature, and a compilation of all laws relating to labor in force at the close of the year, and copies of opinions construing the Labor Law rendered by the Attorney-General during the year.

PUBLICATIONS.

The following publications, other than circulars, posters, or pamphlets of laws for administrative purposes, have been issued by the Department during the year:

Annual Reports for 1909:*

Annual Report of Bureau of Factory Inspection. (August.)

Annual Report of Bureau of Mediation and Arbitration. (August.)

Annual Report of Bureau of Labor Statistics. (August.)

Annual Reports for 1910:

Annual Report of the Commissioner of Labor. (February.)

Quarterly Bulletins:

No. 46 (March, 1911).

No. 47 (June, 1911).

No. 48 (September, 1911).

Monthly Bulletin of Licensed Tenement Houses (twelve issues).

Pamphlet on "Prevention of Accidents in Great Britain" (reprint of report of the Commissioner of Labor to the State Commission on Employers' Liability, etc.), July.

OFFICES.

Once again attention must be called to the condition in our official quarters in the capitol. We are so overcrowded as to affect

* The annual report of the Commissioner of Labor for 1909 was published in January, 1910.

quite seriously the efficiency of our clerical and statistical force. Maximum efficiency cannot be attained when work is done in cramped, ill-ventilated and poorly lighted offices. We have sought relief, but our efforts have been unavailing. The legislation of 1911, which added quite materially to our work, has aggravated a situation that had already become almost intolerable. We must have relief.

When our New York City office at 381 Fourth Avenue was leased, we hoped that it would prove large enough to accommodate the various bureaus of the Department for some years to come. Such, however, is not the case. The bureau of industries and immigration has been housed practically for a whole year at the expense of the chief investigator. It was neither fair nor honorable for the state to permit an enthusiastic, efficient and zealous official to bear this burden. I consented to it under protest, realizing that my refusal to do so would seriously interfere with the plans of the head of the bureau to make the experiment of handling immigration problems humanely and scientifically a complete success. I do not regret consenting to the arrangement. The work done and results accomplished, which will be discussed in their proper order, have fully justified my confidence in the good sense and judgment of Miss Kellor. Ample provision must be made for official quarters for the bureau. At the present time the state is paying one-half the rental for the quarters occupied by the bureau of industries and immigration. If the Legislature should fail to provide the necessary funds to meet the necessary expenses of the bureau, I shall regard such failure as a mandate to curtail its activities. This would be a serious blunder and would reflect unfavorably upon our people. I sincerely hope it will not be necessary to adopt such a course.

ORGANIZATION.

In my report for 1910 I stated that the total force of the Department, provided for in the appropriations made in that year, was 120. The appropriations of 1911, available on October first, provided for a large increase in our force. When we are fully organized on the basis of our current appropriations, the number on the Department pay-roll will be 160, apportioned as follows:

Administrative Branch.—The commissioner, an assistant or counsel, one special agent, a confidential clerk, a confidential agent, an audit clerk, one stenographer and a page.

The Bureau of Factory Inspection.—The chief factory inspector (first deputy commissioner), two assistants, mechanical engineer, superintendent of licenses, medical inspector of factories, two tunnel inspectors, a mine inspector, eight supervising factory inspectors, sixty-eight factory inspectors, and eighteen clerks or stenographers.

The Bureau of Labor Statistics.—The chief statistician, three senior statisticians, four junior statisticians, one expert, five special agents, four clerks, two stenographers, and a librarian.

The Bureau of Mediation and Arbitration.—The chief mediator (second deputy commissioner), mediator, two assistant mediators, a special agent and one clerk.

The Bureau of Mercantile Inspection.—The mercantile inspector, eight deputy mercantile inspectors, a clerk and one stenographer.

The Bureau of Industries and Immigration.—The chief investigator, counsel, five special investigators, one stenographer and one clerk.

The Division of Industrial Directory.—The superintendent and one clerk.

Each bureau herein mentioned has diligently pursued its course throughout the year rendering efficient service in its respective field and co-operating with the other branches of the Department to the end that the interests committed to our care should in no wise be neglected. The division of industrial directory has no history to record, for it came into existence with the close of the fiscal year of 1911.

LABOR LAW ON PUBLIC WORK.

Sections 3 and 14 of the Labor Law contain provisions which seek to regulate conditions of labor and employment on all public work within the state, except such work as may be under federal jurisdiction. The salient points in section 3 are those relating to the hours of labor of "laborers, workmen or mechanics" employed upon public work, and the rates of wages paid for labor so performed. Section 14 prohibits the employment of aliens on

public work and provides further that preference shall be given to citizens of this state.

The enforcement of these regulations is imposed upon the commissioner of labor. The task is by no means easy, nor can it be said that the results in cases of alleged violations that have been investigated are always satisfactory. This is due to the fact that the law fails to define the powers and responsibilities of the commissioner of labor. Especially is this the case in regard to the enforcement of section 3.

The procedure adopted by the commissioner of labor is as follows. Systematic inspection of public work is not attempted for the obvious reason that no provision has ever been made to enable the Department to do so. Investigations are undertaken only upon receipt of formal complaints alleging specific violations. When a complaint is received it is recorded and referred to one of the Department attaches, who forthwith conducts an investigation. The place of work is visited and all the facts bearing upon the allegation are ascertained by careful inquiry among the persons who are engaged upon such work; affidavits are taken where necessary. In some instances the facts are freely stated by the contractor. Under such circumstances, sworn statements are unnecessary. If the investigation establishes a violation, the course prescribed in section 21 of the law is followed. Notices are promptly served upon the offender, and in addition the violation is brought to the attention of the officer or board having charge of the work, who is charged with a specific duty upon receipt of such notice. Supplementing the course laid down in section 21, the commissioner of labor, when a violation has been established, notifies the disbursing or auditing department of the state or municipality, as the case may be. This is done so that the provision in section 3, which prohibits the payment of funds on account of any work which in the manner of its performance violates said section, may be properly observed and enforced.

EIGHT-HOUR DAY.

Regarding violations of the eight-hour law this procedure works fairly well, for it is comparatively easy to find whether or not the men engaged on a given piece of work have been required

or permitted to exceed the legal limit of eight hours in one calendar day. If the employer attempts to justify such excess on the ground of "extraordinary emergency caused by fire, flood or danger to life or property," the burden of proving such state of "extraordinary emergency" must be assumed by him.

PREVAILING RATE OF WAGES.

But in regard to alleged violations of the provision requiring that "laborers, workmen or mechanics" shall be paid for a legal day's work not less than the prevailing rate of wages in the same trade or occupation in the locality within the state where such public work is situated, erected or used, the duty imposed is far more difficult. There are elements that enter into the determination of that question which are not so easily ascertained. In the first place, it is necessary to a proper determination of such an issue, that the controlling legal terms be correctly interpreted. What is meant by "prevailing rate of wages," and what area should be included under the term "locality"? We have given to the first mentioned what we consider is the common sense meaning of the phrase, namely, that the prevailing rate of wages is the rate paid to a majority or to a substantial plurality of those engaged in a given occupation or trade. The phrase means just that, or the provision is meaningless. The term "locality" has been taken by us to mean the political division or subdivision within the confines of which the public work affected is situated. It is conceivable, however, that the latter in some cases may be too narrow a construction, for some sections or divisions of public work extend through or into more than one political division or subdivision. Hence each case must be carefully considered by itself. But in all cases the rate of wages must be ascertained by means of careful inquiry conducted with absolute impartiality. It is a difficult and tedious process, and the best that we can hope to attain is a fair and honest approximation of the facts. It is clearly out of the question for this Department to attempt a complete census of any locality, and without such exhaustive data as a census would furnish, absolutely accurate information as a basis of action is not available. The penalties for a violation,

which are prescribed,—namely, forfeiture of contract and inhibition upon the disbursing officer of payments due on account of the work,—are so drastic that unusual caution is necessary in order that injustice may not be inflicted. If the facts are not obvious and practically incontrovertible, no pains should be spared to get at the truth. The Department has been fortunate in that but a few complaints of failure to pay the prevailing rate of wages have been lodged with it. Only one serious allegation of that nature has engaged our attention in several years. Early in the year 1911 complaint was filed against one of the contractors engaged upon an important section of the New York Water Supply. It was alleged that the contractor was paying its laborers a daily rate of wages considerably below the prevailing rate for the same "class" of labor in the city of Yonkers, the work in question being all, or nearly all, within the corporate limits of said city. This contract covered an outlay of several millions of dollars. As a result of our investigation, a preliminary ruling was made that the complaint had been sustained. Consequently an order was served upon the contractor, directing compliance with the requirements of law. The contractor thereupon appealed from the ruling, on the ground that it had been established without a full ascertainment of the facts. A hearing was requested. This request was granted. Three sessions were held, two in New York City and one in Yonkers. Complainant and contractor were represented by their respective counsel. Witnesses were called and examined with a view to securing reliable information as to wages paid and as to the "class" of work done by "laborers." Some weeks after the hearing, counsel for each side submitted a brief, and the Yonkers Federation of Labor was permitted to file a brief. The case is pending as this report is penned. No notice of any description regarding the alleged violation mentioned has been served upon any official of the City of New York. It would be manifestly improper to do so until the issue of fact has been settled.

It is my deliberate opinion that the provision relating to wages to be paid to laborers, workmen or mechanics employed on public work has not been properly worked out. It would be more satis-

factory to employees and employers if the minimum or prevailing rate of wages for each class of labor on each given piece of public construction work were stipulated in the contract or specifications. Such a provision could be very easily enforced and would apply throughout the period of the work's progress except as the rate might be increased by the operation of economic laws or conditions.

ALIEN LABOR.

The law reserving the privilege of working on public work to American citizens has not been enforced with any appreciable degree of success. Complaints are rather frequent that non-citizens are engaged, mostly to do laborers' work, without any regard for the law. The Department until the summer of 1911 had not been able to accomplish anything in connection with the enforcement of the law. Magistrates and public officials having charge of public work had paid but little heed to its provisions when violations were brought to their attention. They relied upon a decision rendered by the Superior Court of Buffalo in 1895, which held unconstitutional the original law from whence section 14 of the Labor Law was derived. I held to the view that since the Legislature had twice re-enacted the law after the pronouncement by the Buffalo court, we were entitled to have the question settled once for all as to whether it was valid and enforceable. Consequently, when a complaint was received alleging a violation by a corporation engaged upon a contract for the construction of a section of the barge canal, we decided that a determined effort should be made to bring the matter to an issue. Investigation sustained the complaint. Notice was served upon the contractor directing compliance with the law. Reinvestigation showed that the notice had been disregarded, whereupon the evidence in the case was transmitted to the district attorney of the county within the confines of which the violation had been committed, with a request that he should cause the indictment of the offending corporation. The district attorney of Orleans county promptly responded. An indictment was returned. When the corporation appeared to plead, its attorneys filed a demurrer to the indictment. In due time the County Judge overruled the demurrer, and the defendant corporation will be brought to trial.

The Attorney-General, at my request, is looking after the interests of the people, acting in conjunction with the district attorney of Orleans county. It is hoped that before long a final decision may be rendered which will set at rest the uncertainty regarding the validity of this hitherto inoperative regulation of the privilege of employment on public work. Pending a decision, the Department will not attempt an enforcement of section 14 of the Labor Law.

INVESTIGATIONS.

The number of complaints alleging violation of the eight-hour law investigated during the year was 62, of which 24 were sustained and proper notices served as required in section 21; 34 were found to be unreliable or without sufficient foundation in fact to warrant any action by this Department; and 4 were pending at the close of the fiscal year.

In cases where our investigations show that more than eight hours' work in one calendar day has been required or permitted, and the responsible public officials have been duly notified by the commissioner of labor, the responsibility for subsequent action as provided in the statute rests entirely upon the officials so notified. This is indeed a grave responsibility, for the obligation is to "take proper proceedings to revoke the contract of the person failing to comply with or evading" the provisions of the law, or, in case the offender be a public officer, or an agent or employee of the state or of a municipal corporation, to cause the suspension or removal of such offender. Under these circumstances, it is not surprising that public officials upon whom notices of violations of this law are served, immediately proceed to inquire into the facts upon their own responsibility. It is a perfectly proper course for such officers to pursue, for all that really can be claimed for the material submitted by the commissioner of labor is that it constitutes *prima facie* evidence of a violation of the law. Therefore, a searching inquiry by the officer receiving from the Commissioner of Labor such evidence as he has gathered, is an essential part of the "proper proceedings" to be taken to revoke a contract, etc., if a case is made out against the person charged with a violation of the law. The material interests of the state

or municipal corporation committed to such officials demand extreme care, so as to avoid legal complications which would result from a loose and indiscriminate revocation of contracts. Moreover, the rights of contractors should not be jeopardized by any arbitrary action without proper hearing. If the final results in many of the cases investigated are unsatisfactory, that condition is due largely to the extremely drastic penalty prescribed. The nature of the penalty, I firmly believe, conduces to a strong disinclination on the part of the officials in charge of important and costly public work to hold that a violation of the law has been clearly established, because to do so might involve them in serious and difficult controversies and cause heavy additional burdens to be added to the cost of the work affected, far out of proportion to the gravity of the offence committed. If this be a true statement of the situation, it would be well to consider the advisability of amending the law so as to provide an enforceable penalty. The best course would be to prescribe a definite civil penalty for each violation, the employment of each workman beyond the legal limit to constitute a separate and distinct cause of action to recover such penalty; all payments on account of work done to be withheld during the pendency of such action. By this method, effective and speedy enforcement of the law might reasonably be expected, without jeopardizing in the slightest degree the interests of workmen, contractors, or the people.

BUREAU OF FACTORY INSPECTION.

On February 16, 1911, Mr. William W. Walling, the chief factory inspector, tendered his resignation, which was accepted to take effect February 28, 1911. Mr. Walling rendered efficient service from October 4, 1907, until he severed his connection with the Department.

Mr. John S. Whalen of Rochester was selected to fill the vacancy, his appointment taking effect on March 28, 1911.

Up to the end of the fiscal year covered by this report, no changes of an essential character were made either in methods or organization, the field work being conducted upon lines fully described in previous reports.

GENERAL FIELD WORK.

The report of the chief factory inspector, contained in Appendix II, covers in brief form the various features of the activities of the bureau.

Table 1 presents a condensed record of the work of inspectors for the past five years. It is conveniently arranged for comparison of one year's work with another, and shows clearly the steady growth in amount of work done. This growth is particularly notable in the second section of the table, where it is shown that the number of visits made to ascertain whether orders issued had been complied with, increased almost 9,000 in the last year. This result bears out our prediction in last year's report where it was stated that we intended to "give greater attention to a thoroughly practical enforcement of the law." The fact remains, however, that our equipment is very far from adequate to meet the demand for a really efficient inspection of factories and enforcement of the Labor Law. One or two visits in a twelvemonth to manufacturing establishments is utterly insufficient. Closer supervision over conditions surrounding employees cannot be provided without a large increase in our force. Adequate inspection means twice the number of inspectors that are now provided for. Bakeries in the larger cities should be inspected once a month, and shops located in tenant-factories should be under observation at least once every two months.

TENEMENT INSPECTION.

In the report of the chief factory inspector will be found the statement submitted to him by the superintendent of licenses, covering the investigations of applications for tenement house licenses and the inspection of licensed tenement houses in Greater New York.

On September 30th there were 13,213 licensed premises in Greater New York and 451 in the remainder of the State. It is perfectly obvious, then, that the problem of tenement house manufacturing is confined to Greater New York and that no special discussion of tenement house work as it affects any other community within the state is at all necessary.

With respect to the future, it has been decided to give the superintendent of licenses a permanent staff of at least eight inspectors who shall devote their time exclusively to the enforcement of Article VII of the Labor Law in Greater New York.

It would be idle for us to contend that our supervision over manufacturing in tenement houses is up to the standard contemplated in the statute. It never has been and never will be unless a small army of inspectors is provided for and kept constantly at work. Our inspectors are only in these apartments for a few minutes once or twice a year at most, and it would be folly to assume that we are able under such circumstances to observe all that should be known concerning this phase of our industrial life. That conditions are improving will be admitted by the strongest opponents of "home work" in tenement houses, but that they are far from ideal is also well known and understood by all who have given the subject any real attention.

It is said that the evils of child labor prevail in connection with tenement house manufacture to an alarming degree. The number of children of school age found at work in their homes during school hours by our inspectors was quite small, but this fact should not be regarded as proof that the alleged growth of child labor in tenements is unfounded. It is probably quite true that many small children under school age are required or permitted to perform certain simple and easy tasks in connection with the various processes and operations incident to the work done in these homes. The work done by such small children cannot be very difficult nor can it be very heavy, but if the little ones are compelled to remain at work for long periods of time, an intolerable condition is brought about, and no effort should be spared to relieve their sufferings. As to the children of school age, it would be well if they were not permitted to engage in any manufacturing pursuit in their homes until they had reached twelve years of age. But in dealing with this phase of the subject, great care should be exercised so as not to foster wilfulness and disobedience to parents. The sacred right of parents to order the conduct of their offspring and to teach them habits of industry and thrift should not be lightly invaded. Indeed, it should not be thought of except where the welfare of society demands that

such a course be pursued. No legislation based upon any theory of regulation or prohibition, however plausible, should be enacted until the subject has been very carefully considered and the true state of facts ascertained.

VENTILATION.

There is nothing to be added to what we wrote on this subject in the report for 1910. The Legislature of 1911 failed to enact legislation fixing a standard of ventilation. This being the case, we have only undertaken in extreme cases to compel factory proprietors to provide means of ventilation and to maintain satisfactory air conditions in workrooms. The Legislature of 1912 should do one of two things,—it should enact into law the bill introduced in 1911 and so enable the Department to move for a much needed improvement in factory workrooms; or, it should provide for a thorough and exhaustive inquiry into the subject, both as to the need of ventilation and the proper standards to be established and enforced, leaving the task of enacting a suitable law to a succeeding Legislature.

SANITATION AND SAFETY.

It is the function of the bureau of factory inspection to enforce the requirements of the Labor Law relating to sanitation and safety in factories, mills and workshops. To the limit of its capacity it has applied itself to this task during the year that is past. No claim is herein set up that the bureau has been able to compel the maintenance of proper standards at all times in every place falling within its jurisdiction. I can only repeat what was said before, that one or two visits a year is not enough. We cannot by such insufficient observations find out infractions of the law and apply the remedies.

The legislature of 1911 provided for a substantial increase in the field and office staff of the bureau, but even when fully equipped according to the improved plan of organization, its field force will remain inadequate to enforce the law.

In order to deal more effectively with cases of unsanitary conditions, the summary powers of the commissioner of labor should be increased so as to enable him at once to compel proprietors to

conform to decent hygienic standards. I am convinced that formal orders to clean factory floors, toilets, halls and stairways, should be issued only when there is a general air of indifference about a place. When a shop or workroom is really dirty, we should have the power to compel a suspension of work until the place has been given a thorough cleaning. We have that power now in regard to shops in tenant factories, if the product manufactured is enumerated in section 100 — and we employ it with most satisfactory results. But why should we not have the power with respect to unsanitary conditions in all shops, irrespective of location or nature of the business engaged in? If we had such authority and had also a force large enough to apply the remedy, as suggested, filthy factories and shops would become quite rare.

The law should also give us authority to prescribe the time when and how factory floors should be swept, in order to allay the discomforts and eliminate the dangers incident to raising clouds of floor dust while employees are at work.

The matter of factory illumination is also most important. We have no standard, and the subject is so little understood that it is impracticable to undertake reforms without first securing expert advice. There is universal agreement that eye-strain among those who work constantly under artificial light is a fruitful cause of bodily ills; therefore, the duty of regulation in the form of definite standards is pressing upon us. Such standards should be determined only after a searching inquiry conducted by the commissioner of labor under special or general powers to be conferred upon him, or, by a special commission empowered to take up the subject.

In regard to safety, the duties of the factory inspector are varied and somewhat complex. The Wainwright Commission on Employers' Liability and Causes and Prevention of Industrial Accidents recognized the need of strengthening our law relating to machinery by clothing the commissioner of labor with authority to make and enforce rules for the proper application of the specific duties imposed upon the proprietors of factories. This step was eminently proper and is the course adopted by the most progressive and enlightened nations and commonwealths. It would provide for an official interpretation which would have the full force and

effect of law and would insure a much greater degree of uniformity in conditions prevailing in the several industries in the state.

But not only in respect of machinery dangers should the commissioner of labor be given power to prescribe rules to safeguard the persons and lives of factory employees; this power should extend to cover the physical arrangement of workrooms with special reference to partitions and temporary divisions of floor space and such other conditions as might, in case of panic from whatever cause, retard or interfere with egress from such workrooms.

BAKERIES.

From our large centers of population there is a frequently recurring cry that the "factories" wherein the "staff of life" is manufactured are in a poor sanitary condition. That there is justification for this cry no one will deny. What is the difficulty? Is the law which purports to regulate bakeries, inadequate? Proper sanitary standards may be established and maintained in bakeries without changing a syllable of the present law. The difficulty lies in the fact that we are unable to enforce the law because our force of inspectors is so limited as to make proper inspection impossible. By this I do not mean that our inspections when made are not thorough,—they are simply too infrequent. It is doubtful if any manufacturing business by its very nature conduces to uncleanness more readily than that of baking bread, pies and cake. The natural and unavoidable waste which falls to the floor, if left unswept from day to day, soon results in accretions of filth. This is also true of the utensils. Unless they are thoroughly cleaned after each day's use, intolerably nasty will be their condition. One or two visits a year are not at all impressive. The baker is not made to realize that the state is in earnest in the matter of inspection and law enforcement. Monthly inspections and an occasional application of summary methods under section 114 of the law are the only means adapted to force upward the standards of sanitation. To do this we must have a substantial increase in the number of inspectors devoted exclusively to the inspection of bakeries. If this suggestion is adopted, the cry of "filthy bakeries" will be heard no more.

CHILD LABOR.

There is a slight increase (753) in the number of children employed in the factories in the state, but it is encouraging to note the gradual decline in the percentage of children between 14 and 16 who are illegally employed.

The increase in child labor was largely in Greater New York; in fact, the increase there exceeded the net increase in the state by 29. At the same time, the total number of children illegally reported at work in the same territory is 49 less than in 1910.

PROSECUTIONS.

The bureau continued its punitive activities as in former years, although not so many cases were instituted as in 1910. Of the 84 cases pending at the beginning of the fiscal year, 80 were disposed of, resulting in 71 convictions, 5 acquittals, and 4 were withdrawn. In 37 of the cases convicted, the court exercised its prerogative to suspend sentence; while in 34, fines aggregating \$820 were imposed.

From October 1, 1910, to September 30, 1911, there were 413 separate charges of violation of the law brought to issue in the criminal courts. Of this number, 299 were completed and a record of conviction, acquittal or withdrawal prepared relative thereto.

Attention is again called to the tenderness of judicial officers whose duty it is to mete punishment to those who violate the Labor Law. With a record of conviction in 246 cases, fines were imposed in but 95 and sentence suspended in 151. It is most discouraging to a careful, conscientious and capable inspector to find that while engaged in the performance of his duty, he is regarded by some magistrates as an offender and is ridiculed and censured for his activity in the enforcement of the law. This condition will continue until there is in each community afflicted with such men on the bench, a body of public sentiment that will not tolerate the assumption and exercise of authority which renders null and void the legislative safeguards thrown around working men, women and children. Organized civic groups should pay more heed to this aspect of the problem of labor law administration. They should be helpful, not alone in securing legislation but also in the

matter of educating the public to a proper sense of its responsibility in regard to the enforcement of such legislation.

ACCIDENTS.

During 1911 a total of 44,551 accidents were reported to the Department as having occurred in factories, resulting in more or less serious personal injuries to operatives or persons upon the premises. This exceeds the number recorded during 1910 by about 20,000.

According to these figures it would appear that about 4 per cent of all the persons employed in factories were injured during the year. This fact emphasizes the need of closer attention to the question of safety on the part of employers and employees. Moreover, it points to an important duty to be assumed by this Department, especially with reference to accidents that are obviously preventable. Such accidents should be investigated as promptly as possible. But we have not been sufficiently equipped to enable us to undertake such investigations on an extensive scale. With the advent of the new year we expect to do more in this particular line, for we shall avail ourselves of the increase in the force in such manner as to eliminate so far as possible the causes of accidents which are due to the fault or neglect of the employer.

Mine accidents are far too numerous. Many are due to the utter lack of appreciation of dangers incident to this class of work, such indifference being characteristic largely of the foreign element among mine workers. We are with confidence looking forward to a diminution in the number of mine accidents, on account of having secured the services of a very capable and conscientious mine inspector, whose report is contained in later pages.

Accidents occurring in connection with the prosecution of building and engineering work are included in our statistics this year for the first time. The number recorded (15,335) seems high, but the probabilities are that these figures only represent a certain proportion of the accidents that happen. It is more than likely that many employers are yet ignorant of the law requiring that injuries accidentally sustained by their employees in the course of their employment, are to be reported to this Department.

Regarding this group of accidents, it should be remembered that the state has only provided by law for the safety of those engaged in the erection of buildings and those employed in the construction of tunnels and certain kinds of foundation work where compressed air is used. Men employed in excavation and general engineering work, such as the barge canal and good roads contracts and other improvements and enterprises, are wholly unprotected, except by implication. Laws should be enacted providing for the inspection of public work for purposes of safety, and power should be given the commissioner of labor to prescribe definite rules for the proper safeguarding of machinery, apparatus and ways used in connection with such work. The duty of the state in this respect is clear and unmistakable. Having undertaken the protection of the factory employee, how can it consistently leave to his fate the man whose occupation is relatively far more hazardous? The State Commission on Employers' Liability recognized these facts and recommended legislation under which, if enacted, a measure of protection would be afforded to those employed on engineering work. It is regrettable that the legislation failed of passage. Bills effecting this needed reform should be introduced and passed during the session of 1912.

MEDICAL INSPECTOR'S REPORT.

Attention is directed to the report of the medical inspector of factories. The comments therein contained on ventilation and lighting of factory workrooms deserve serious consideration, particularly with reference to the latter subject. The other subjects treated by the medical inspector are presented with a view to stimulating the growing public interest in matters relating to factory hygiene and the proper conservation of the health of workers. The chapter on "Women and Children" should be carefully perused. Suggestions are made therein which should command the attention of the Legislature, and amendments to existing laws should be enacted to embody the recommendations. This is true also of the chapter on "Industrial Diseases."

Dr. Rogers in his report on the investigation of the dangers of

mercurial poisoning in connection with the manufacture of hats, makes certain definite recommendations. These take the form of regulations to be observed by employers and by employees. The commissioner of labor is not empowered to prescribe such regulations, but he should have such authority, as otherwise such matters must be left to the promptings of the humanitarian instincts of employers on the one hand, and on the other to the intelligent sense of danger of employees. The foregoing applies also to all other industries in connection with which it is necessary that special precautions be taken to avoid dangers incident to the character of the work and the elements or material used in the processes of manufacture.

TUNNEL INSPECTION.

The report of the tunnel inspector is a brief, comprehensive document. It contains certain suggestions which will be adopted.

A much larger number of accidents were reported from tunnels during the past year than were reported in 1910, and the inspector very properly directs attention to the principal cause of this increase, namely,—the fact that the Department is now requiring that all accidents be reported regardless of the length of the period of disability, whereas formerly, only such as resulted in the suspension of work for five hours or longer were called for.

It is pleasing to note that employers in this particularly hazardous business are so ready to act upon the suggestions of the inspector in order to insure a greater degree of safety to their employees. This is a perfectly natural attitude, for it is inconceivable that any employer would wilfully risk the lives of his workmen after his attention had been called to a condition that was dangerous.

It is quite evident that the field to be covered by the tunnel inspector, when the peculiarly dangerous character of the work is taken into consideration, is too extensive for one inspector to attend to. Therefore it was with a great deal of pleasure that I found the Legislature of 1911 in a frame of mind to provide for an additional man for this work. This having been done, the inspection of tunnels in 1912 will be more thoroughly and efficiently done than ever before.

MINE INSPECTION.

The report of the mine inspector, contained in Appendix II, covers the period from May to September 30, 1911.

Mr. W. W. Jones was appointed from the civil service list, and his report shows that he is fully qualified to perform the important duties of his position. Moreover, it is evident that he is keenly cognizant of the hazardous nature of the work in mines and quarries. The suggestions and recommendations made by him are practical and if adopted will prove helpful in eliminating to some degree at least the great dangers incident to mining and quarrying pursuits.

The need of a carefully prepared, practical and workable explosives act is unquestionable, and it is our purpose to take steps to present or to co-operate in the presentation of a bill designed to meet this situation.

Now that we have in the service an energetic, earnest and competent mine inspector, we look forward with great confidence, believing that in the course of the year 1912 the safety of mine and quarry workers will be given proper attention.

The mine inspector has established the practice of frequently consulting the records of mine and quarry accidents, so as to keep informed concerning the nature and frequency of such happenings and be in a position to require that precautions be taken to prevent their recurrence.

BUREAU OF LABOR STATISTICS.

The work of this bureau during the year comprises the usual work along the established lines of former years, together with certain new work. The former includes the publication of the quarterly Bulletin of the Department, collection and publication of statistics of unemployment, wages, hours and earnings, preparation of statistical and other materials for the reports of other bureaus, supervision of the printing and distribution of the annual reports of the Department, and the furnishing of information by correspondence on a great variety of subjects connected with labor problems.

The principal new work developed during the year comprises a large expansion of work in connection with statistics of accidents, a special statistical investigation of the night work of female tele-

phone operators, and the preparation of an exhaustive history of one of the oldest and largest trade-unions in the state. The work in accident statistics has been developed in accordance with the plans outlined in my report of last year, with expansion in three directions. In the first place, reports of accidents in building and engineering work required to be reported this year for the first time under chapter 155 of the Laws of 1910, have been secured to the number of 12,000,* as indicated by the summary of accidents in the report of the factory inspector in later pages. It is impossible to say what proportion of all the accidents in the building and engineering industries were reported during this first year under the new law. Certainly far from all of them, as there is every reason to anticipate, in the light of years of experience in connection with the reporting of factory accidents, that a considerable period of education must elapse before regular reporting of all accidents by all employers in those industries will be secured. It is precisely for this reason that considerable time was spent during the year by the bureau in field work for the purpose of ascertaining how fully the law was being observed and bringing it to the attention of employers more forceably than is possible by circularization alone as well as to secure more adequate information concerning the size and nature of business of firms. It was possible to cover, however, only a portion of the state in such field work with the time and force available. An idea of the extent of the field to be covered in such work may be gained from the fact that a tentative list of employers in the building and engineering industries of the state, secured by the bureau early in the year, included over 18,000 names.

A second expansion of the work in accident statistics resulted from a wider definition this year of what constitutes an accident in factories, mines and quarries, so as to include the large class of accidents causing disability for less than five hours, or one-half a day, which have heretofore been excluded. Chiefly as a result of this change, the number of reported accidents in such industries increased from a total of 24,500 to about 46,000, or nearly doubled. The work of filing and tabulation has naturally increased accordingly.

* Exclusive of accidents in tunnel construction work, which have been reported in previous years.

In a third direction, the work in accident statistics has been extended by systematic supplementary inquiries, concerning amount of time lost and extent of injury, in case of every reported accident for which these items are not clearly shown by the first report. With a total of over 60,000 accidents reported during the year, this effort to secure the necessary supplementary reports of the above items has proven no small task.

The special inquiry concerning night work of female telephone operators is designed to afford as nearly complete statistics as possible upon the subject, covering number and age of operators, time of beginning and stopping work, hours of work, rates of wages, and length of time employed on night work. As this report is written, the work on this investigation is so far completed that it can be stated that the special report on this subject will include practically complete statistics for the telephone companies in this state.

During the year one member of the staff of the bureau has devoted nearly all his time to the preparation of an exhaustive history of one of the oldest and largest trade-unions in this state or in this country. It is hoped that this special study of an old and highly developed organization will prove a valuable supplement to the general statistics of organized labor which have been published annually for years.

For the coming year, it may be noted that legislation of 1911 will necessarily increase the work of the bureau of labor statistics in two directions for which no additional resources have as yet been provided. One of these is connected with the enlargement of the inspection force of the bureau of factory inspection. A larger amount of inspection and investigation work by that bureau necessarily implies an increase in statistical work for the proper utilization of the results of inspection work. This fact was clearly recognized by the special commission which recommended the bill for the increase of the inspection force, and which specifically recommended that with provision for more inspection work there should go an increase in the statistical force of the Department.*

The other development of work referred to as necessitated by the legislation of the last year, is that provided for by the new law (chapter 258 of the Laws of 1911) requiring reports of certain

* Second Report of Commission on Employers' Liability, Etc., page 24.

classes of industrial diseases to the Department. The administrative work under this act falls to the bureau of labor statistics. As a step toward securing comprehensive information concerning diseases of occupation, which is the essential first step for scientific work in the direction of prevention, the significance of this law in the campaign for industrial hygiene can hardly be overestimated. With proper development of work under this act it seems reasonable to believe that the co-operation of the medical profession generally, whose technical knowledge renders their co-operation in this field of great importance, can be secured not only with reference to the comparatively few industrial diseases specified in the law, but with reference to all such diseases. That proper development of this work, either within or beyond the specific limits of the present law, must depend upon provision of some resources especially for it, may be indicated by the fact that it involves relations with nearly 14,000 individual physicians, hospitals and dispensaries throughout the state.

BUREAU OF MEDIATION AND ARBITRATION.

The bureau of mediation and arbitration during the year 1910 has been under the immediate charge of Mr. William C. Rogers, who assumed the duties of chief mediator in October, 1910.

The service rendered by this bureau is of such a nature that it would be difficult to express its value according to ordinary standards. That it has been instrumental in relieving the tension in many cases where the relations between employers and employees were badly strained, is undoubtedly true.

The report of the work performed by the bureau during the past fiscal year is contained in Appendix III, and is presented in greater detail than heretofore has been customary. This course was adopted because there is a growing public interest in all mediatorial work or efforts to establish and maintain peace between capital and labor. It is our desire to present a true statement of what has been accomplished by the staff, in the hope that confidence in this official agency for averting and settling strikes may be inspired. If this result can be attained, its sphere of usefulness may be widened and greatly increased with resultant benefit to all. That it is absolutely impartial in its handling of disputes

which it undertakes to compose, will no doubt be freely admitted. The only purpose that animates the chief mediator and those associated with him, is the securing of the highest attainable degree of concord and harmony in the relations between the forces of capital and labor. The bureau confessedly believes that the most satisfactory results to all may be secured only through agreements made between employers and their employees collectively. But it cannot, nor shall it be employed, to effect any organization either of employers or employees. It must confine itself to its proper functions as defined by law.

It was not found necessary to undertake public inquiry into the causes of any of the strikes which occurred during the year.

An association has been formed of officials of bureaus of mediation and arbitration, embracing many states and Canadian provinces. I approved the movement for such an association and authorized the chief mediator to participate and aid in its formation. The purpose of the organization is to furnish through its meetings a medium for the discussion of problems and methods of mediation and arbitration, so that the experiences of men engaged in this branch of governmental work may become available to all who may be similarly engaged. The slight expense attached to the maintenance of such an association, I believe, is fully warranted and will repay the state in the increased efficiency of the service resulting therefrom.

BUREAU OF MERCANTILE INSPECTION.

The report of the mercantile inspector is contained in Appendix IV.

In the brief analysis of the work of the bureau, the mercantile inspector directs attention to the fact that there are still many establishments in cities of the first class which have not been inspected, although the bureau has been in existence for three years. This being the case, it is obvious that we need more inspectors in order that the duties devolving upon us in respect of the enforcement of the mercantile law be properly and efficiently performed.

The nature of the duties of the mercantile inspector and his deputies should be clearly understood. As pointed out in the

report, they are required often to be in the field early and late in order to detect violations of the law. Under these circumstances, the test of their efficiency consists not of the number of inspections made, but of the conditions which prevail within the area committed to their care. I think it will be conceded that illegal child labor in mercantile establishments in the cities of New York, Rochester and Buffalo is not as extensive as it used to be. The figures presented show the effect of our activity; the reduction in the percentage of such illegal employment is quite significant. Nevertheless, there is need of serious work before we can say that the problem of child labor in mercantile establishments is well in hand.

The various features of the bureau's work are discussed under proper headings, and constructive suggestions or recommendations are made with reference to the law bearing upon each subject.

The recommendation that provisions be inserted so as to require the proper lighting of water-closets, and to include business offices, telegraph offices, restaurants and hotels within the scope of the law relating to water-closets, should be seriously considered. Common decency and self interest should impel the proprietors of such establishments to provide modern sanitary closets in properly lighted compartments for the use of employees, and when this is not done the law should require that it be done.

Attention is called to the difficulty encountered in the enforcement of the requirement that seats be provided for female employees. Particular emphasis is laid upon the unsuitability of portable seats, and it is suggested that the law be amended so as to require the proprietors of mercantile establishments to provide adjustable seats, permanently secured at convenient locations. This should be done so as to simplify the problem of enforcement and remove the ambiguity in the provision relating to this subject, as well as to secure to the female workers the relief intended when the law was originally framed.

Regarding ventilation, the recommendation of the mercantile inspector is sound and agrees in every particular with the views expressed in our comments upon this subject in connection with the work of the bureau of factory inspection. Such a requirement

should apply to all parts of premises used for mercantile purposes in which event the provision requiring permit for the use of a basement for such purposes might well be eliminated.

In discussing prosecutions, the mercantile inspector directs attention to the lack of support of the department in its efforts to enforce the law, which manifests itself in the failure of judicial officers to regard crimes against the labor law as deserving of punishment. The report shows that 515 cases came to final issue during the year. The results were as follows: dismissed or acquitted, 71; withdrawn, 1; convicted and sentence suspended, 320; convicted and fined, 123.

In cases where guilt was admitted or proven, the percentage of suspended sentences was exceedingly high (74 per cent). We are not disposed lightly to criticize the acts of judicial officers whose prerogative it is to temper justice with mercy; but when such a course tends to bring the officers and the department charged with the duty of enforcing the law into contempt, and when the tenderness of the magistrate toward an offender is cloaked with an attack upon the official who brings the offender to court, respect for such a magistrate ceases to be a virtue. Never can we hope to impress employers with the importance of obedience to the Labor Law so long as those who disobey it are recipients of judicial favor in the form of suspended sentences.

That there was sufficient cause to amend the law relating to the employment of children, so as to include bowling alleys within its jurisdiction, is clearly shown in this report. There were found illegally employed in such places 112 boys, 38 of whom were under 14 years of age. Fifty-nine of the cases of prosecution above discussed were for violations of the Child Labor Law in bowling alleys. Of this number 14 were acquitted or dismissed; 10 were convicted and fined; 30 were convicted and sentence suspended; while 5 were pending on September 30, 1911. The average commercial bowling alley can hardly be regarded as a fit place for a young boy to work in, under any circumstances, and particularly is this true of the boy who is under fourteen years of age. Yet it appears from the above record that the owners of such places, wherein our inspectors found children at work in violation of law, were most considerately treated by some

magistrates. Seventy-five per cent of those who either pleaded guilty or were convicted, were given suspended sentences.

These conditions are discouraging, but we must hope for an awakening of the public conscience. This alone can effect a much needed reform in the standards of some of our minor courts of justice.

BUREAU OF INDUSTRIES AND IMMIGRATION.

The bureau of industries and immigration was created by chapter 514, Laws of 1910, and was organized in October of that year. It is in the immediate charge of Miss Frances A. Kellor, the chief investigator. A complete report of the work undertaken by the bureau, prepared by the chief investigator, will be ready for presentation very shortly.

In the establishment of this bureau the State of New York took a step far in advance of anything undertaken by the federal government or by any other state government, in that it assumed certain obligations with respect to immigrants and aliens within its gates which were altogether new. In brief, the state in 1910 adopted a new policy in relation to all aliens admitted to its confines.

Recognizing the helplessness particularly of the non-English speaking aliens, a number of public spirited and philanthropic citizens took up the question of the state's duty towards them, and by careful and painstaking study of existing conditions, laid the foundation for the creation of a State Immigration Commission. This commission was authorized to make an investigation into the condition and welfare of aliens within the state. In its report the commission recommended the adoption of the policy embraced in the law creating the bureau of industries and immigration.

In taking up this work, the State of New York has expressly declared that all aliens who are found within its territory are to be regarded as wards of the state. It has assumed the obligation to obtain and furnish to them helpful information regarding opportunities for employment; to protect them against exploitation by unscrupulous persons; to employ definite steps to insure the proper education of their children; to co-operate in planning for the instruction of adult and minor aliens in the English

language and with respect to civic rights and duties; to co-operate with other public authorities who have jurisdiction of matters immediately affecting aliens; to protect them against frauds committed against them at places where they are landed or where they may be in course of transit; to protect them against frauds, extortion, incompetency and improper practices by notaries public; and by investigation and study of their social conditions within the state, to induce remedial action by appropriate authorities.

That the tasks assumed by the state are by no means easy will be quite fully comprehended by those who read the report of the chief investigator. At the same time, the tremendous social and civic significance of the work of the bureau cannot but impress our people. As a step toward the proper assimilation of the immigrant, we may well regard this action of our state as the most important ever taken.

It is most gratifying that we were able to secure the services of Miss Kellor. Her familiarity with the problems committed to the bureau, coupled with her tireless energy and constructive genius, made her services invaluable, particularly in the formative period of the bureau's existence. Moreover, I cannot speak too highly of her unselfish devotion to the work as manifested in the matter of supplementing the appropriations for the maintenance of the bureau. This is a quality of public service rarely met or recorded in the annals of government. It is, however, intolerable that the Empire State of New York should permit an intensely earnest servant to draw upon her own material resources to meet proper expenditures which should be borne by the state because incurred in carrying out the policy laid down in the statutes. Miss Kellor in connection with her work has repeatedly taxed her physical strength beyond the limit of prudence. That is all the sacrifice she should be permitted to make.

I earnestly hope that nothing will happen to deprive the state of Miss Kellor's services until the pioneer work of the State of New York in behalf of the immigrant is so well established that other states and the United States government shall have decided to follow in our footsteps.

RECOMMENDATIONS.

I. That the provisions of the labor law relating to the safety of factory operatives be rewritten so as to cover the subject in a broad and comprehensive manner, and that the commissioner of labor, under special authority, be empowered to prescribe rules for the proper application and enforcement of such provisions. In this should be included the conditions and dangers incident to the operation of machinery; the placement of machinery; the arrangement and condition of internal doors, partitions and passages; the condition of stairs, halls and platforms; and any other condition which might prove dangerous to persons employed or being within a factory.

II. That the fire-escape law be rewritten so as to provide for the erection of a more substantial, adequate and convenient means of escape from a burning building, and also that all emergency exits from factory workrooms be properly indicated by posting suitable signs at each such exit.

III. That a law be enacted authorizing the commissioner of labor to prescribe and enforce hygienic rules applicable in all establishments manufacturing food products and in all factories where poisonous substances are used in connection with manufacturing processes. Such a law should be broad enough to enable the Department to enforce its rules upon employers and employees.

IV. That the law be amended so that summary methods may be employed to enforce the maintenance of sanitary conditions in all factories, regardless of location or the nature of the business. This can be done by rewriting section 95.

V. That a provision be enacted under which the commissioner of labor may himself or through a duly authorized subordinate peremptorily summon before a magistrate any person found violating any provision of the Factory Law. This course would do away with a great deal of delay in enforcing the requirements of the law.

VI. That provision be made for the appointment and detail of not less than ten inspectors to inspect bakeries in Greater New York.

VII. That the force of factory inspectors assigned to general field work (exclusive of bakeries in Greater New York) be increased to not less than one hundred.

VIII. That the number of inspectors in the bureau of mercantile inspection be increased to the full quota provided by law, and that the minimum salary of inspectors in this bureau be twelve hundred dollars per annum. There is no justification for the payment to inspectors in this bureau of a lower salary than is paid to inspectors in the bureau of factory inspection.

IX. That the staff of the bureau of industries and immigration be increased in order to enable it to extend its operations so that it may more adequately perform its important functions.

X. That the staff of the bureau of labor statistics be strengthened and increased so that it may be properly equipped to bear the additional burdens thrown upon it by virtue of the natural increase in the amount of statistical matter collected by the department in consequence of the increase in our field forces, and to meet the growing demand for statistical information concerning all phases of labor problems. Particularly is some additional equipment needed at once to properly carry on the work in connection with the reporting of industrial diseases by physicians, required by chapter 258 of the Laws of 1911, but for which no additional resources were provided last year.

XI. That provision be made forthwith to equip the division of industrial directory with proper clerical and field force and all other things necessary to enable the commissioner of labor to comply with the requirements of chapter 565, Laws of 1911. The publication of an industrial directory should prove almost invaluable in connection with the distribution of laborers and in relieving the congested areas in our cities.

XII. That provision be made for appropriate office quarters for the Department in the capitol. The Department has grown to such proportions that every room assigned for its use in the capitol is overcrowded. The situation is intolerable. We are unable properly to store, assort and distribute supplies. In brief, this overcrowding results inevitably in waste of time and treasure. It is imperative that relief be afforded and that the natural growth of the Department be provided for.

CONCLUSION.

Again I am pleased to acknowledge the faithful and efficient service rendered by all attaches of the Department. To Hon. Thomas Carmody, Attorney-General, my grateful thanks are due for the uniform courtesy accorded this Department in the rendering of official opinions bearing upon the legal aspects of its work.

(Signed) JOHN WILLIAMS,
Commissioner of Labor.

APPENDIXES.

- I. Financial Report of the Department.
- II. General Report of Bureau of Factory Inspection.
 - (a) Report of the Factory Inspector.
 - (b) Report of the Medical Inspector of Factories.
 - (c) Report of the Tunnel Inspector.
 - (d) Report of the Mine Inspector.
- III. General Report of Bureau of Mediation and Arbitration.
- IV. General Report of Bureau of Mercantile Inspection.
- V. Index of Labor Legislation in 1911.
- VI. Labor Laws in Force October 1, 1911.
- VII. Opinions of Attorney-General Rendered to the Department During Report Year.

APPENDIX I.

FINANCIAL REPORT OF THE DEPARTMENT.

(a) APPROPRIATIONS AND EXPENDITURES FOR THE FISCAL YEAR OCTOBER
1, 1910, TO SEPTEMBER 30, 1911.

APPROPRIATIONS.			
	Balance	L. 1910, Ch. 512; L. 1911,	
	Oct. 1, 1910.	Ch. 811.	Total.
Salaries:			
Commissioner, deputies and heads of bureaus.....		\$19,333 33	\$19,333 33
Other permanent employees.....	*	145,820 00	145,820 00
Temporary employees.....	\$272 50	500 00	772 50
			\$165,925 83
Traveling Expenses:			
Commissioner.....	231 74	1,200 00	\$1,431 74
Other officers and employees.....	2,051 73	38,000 00	40,051 73
			41,483 47
Printing (including Bulletins).....	30 23	7,500 00	\$7,530 23
Material for Bulletins and Reports.....	**		
Miscellaneous Expenses.....	826 36	14,816 04	15,642 40
			23,172 63
	\$3,412 56	\$227,169 37	\$230,581 93

DISBURSEMENTS.			
Salaries:			
Commissioner, deputies and heads of bureaus.....		\$19,115 57	
Other permanent employees.....		141,881 96	
Temporary employees.....		302 05	
			\$161,299 58
Traveling Expenses:			
Commissioner.....		\$913 86	
Other officers and employees.....		34,977 24	
			35,891 10
Printing:			
Bulletins (3).....		\$1,507 10	
Other printing.....		5,379 02	
			6,886 12
Office and General Expenses:			
Rent of sub-office in New York City.....		\$3,800 00	
Postage and transportation (postage, \$4,728.27; express, \$1,046.44; freight and cartage, \$131.34; post-office box rent, \$16.00),.....		5,922 05	
Telephone (\$733.38), telegraph and messenger service (\$208.42)...		941 80	

* Of the unused balance of \$4,134.77 for this item (see p. 42 of last year's report), \$3,500 was reappropriated by L. 1911, ch. 811, as follows: for miscellaneous expenses \$1,000, for traveling expenses, \$2,000, for temporary employees \$500. The remainder (\$634.77) lapsed.

** The unused balance of \$816.04 for this item (see p. 42 of last year's report), was reappropriated by L. 1911, ch. 811, for the purchase of adding machines.

Stationery and typewriter supplies (stationery, \$661.11; letter-press books, etc., \$113.65; index cards and guides, \$103.50; window envelopes, \$55.20; typewriter supplies, \$29.15).....	962 61	
Books, subscriptions and clippings (newspaper clippings, \$165.00; subscriptions, \$104.50; legislative index, \$50.00; city directories, \$38.00; law books, \$35.50; books for library, \$25.87; diaries, \$10.15; maps, \$3.20).....	432 22	
Office furniture and equipment (files and cabinets, \$612.88; furniture, \$595.68; typewriters and repairs, \$377.02; repairs to sub-office, \$280.90; electric fixtures and installation, sub-office, \$154.60).....	2,021 08	
Other (services, \$403.95; drinking water and ice, \$147.87; supplies for medical inspector, \$73.20; badges, \$44.00; rubber stamps, \$36.80; towels, \$33.00; sundries, \$6.55).....	745 37	
	<hr/>	\$14,825 13
		<hr/> <hr/>
		\$218,901 93
BALANCES.		
Salaries:		
Permanent employees.....	\$4,155 80	
Temporary employees.....	470 45	
Traveling Expenses:		
Commissioner of Labor.....	517 88	
Other officers and employees.....	5,074 49	
Printing.....	644 11	
Office and General Expenses.....	817 27	
	<hr/>	11,680 00
		<hr/> <hr/>
		\$230,581 93

REPORT OF THE COMMISSIONER OF LABOR, 1911. 45

(b) PERSONNEL OF DEPARTMENT, AND INDIVIDUAL SALARY AND EXPENSE ACCOUNT FOR 1911.

POSITIONS AND OCCUPANTS.	Date of appointment.	Salary of position.	Amount received in 1911.	Traveling expenses in 1911.
Commissioner of Labor:				
John Williams.....	Oct. 4, 1907	\$5,500 00(a)	\$5,083 33	\$913 86
Counsel:*				
F. H. Cunningham.....	Jan. 1, 1908	2,400 00	2,400 00	211 84
Special Agent — Legal:				
Charles Whelan.....	Oct. 1, 1908	1,400 00	1,400 00	170 90
Special Agent:				
L. A. Havens.....	Oct. 1, 1910	1,500 00	1,500 00	631 68
Confidential Agent:*				
H. B. Whitney.....	Oct. 1, 1909	1,200 00	1,200 00	1,015 32
Auditing Clerk:				
J. S. Lyons.....	Jan. 27, 1899	1,800 00	1,800 00	.....
Confidential Clerk:*				
J. H. Williams.....	Dec. 1, 1910	1,000 00(b)	850 04	.....
Stenographer:				
Mary L. Stiegelmaier.....	July 1, 1905	1,500 00	1,500 00	.....
Page:				
J. J. Shelley.....	June 1, 1910	360 00	360 00	.....
			<u>\$16,093 37</u>	<u>\$2,943 60</u>

BUREAU OF FACTORY INSPECTION.

Factory Inspector:†				
W. W. Walling(c).....	Oct. 4, 1907	\$3,000 00	\$1,250 00	\$635 84
John S. Whalen.....	Mar. 28, 1911	4,000 00(d)	1,698 91	661 29
Assistant Factory Inspectors (2):				
T. A. Keith*.....	May 27, 1903	2,400 00	2,400 00	318 08
H. L. Schnur.....	July 22, 1907	2,400 00	2,400 00	598 86
Superintendent of Licenses:				
Daniel O'Leary.....	July 1, 1899	2,400 00	2,400 00	165 75
Medical Inspector:				
C. T. Graham-Rogers.....	Nov. 1, 1907	2,400 00	2,400 00	469 00
Tunnel Inspector:				
Gustav Werner.....	Oct. 1, 1907	1,500 00	1,500 00	1,076 47
Clerks (6):				
Jessie M. Sweeney.....	Jan. 9, 1894	1,500 00	1,500 00	.....
Electa R. Lockwood.....	July 1, 1890	1,200 00	1,200 00	.....
A. J. O'Neill.....	April 8, 1894	1,200 00	1,200 00	.....
G. E. Dayton.....	April 1, 1900	1,000 00	1,000 00	.....
Jennie M. Wickham.....	Oct. 1, 1907	900 00	900 00	.....
Estelle Jarvis.....	Nov. 1, 1909	900 00(e)	885 00	.....
Stenographers (3):				
Mary H. Lockwood.....	Aug. 19, 1907	1,200 00(f)	1,200 00	.....
Winifred E. Lockrow.....	Mar. 10, 1902	900 00	900 00	.....
Jannie A. Dillon.....	Oct. 16, 1910	720 00(g)	630 00	.....
Deputy Factory Inspectors (53):				
C. B. Ash.....	May 16, 1896	1,500 00(h)	1,487 50	474 33
M. J. Flanagan.....	Aug. 17, 1897	1,500 00	1,500 00	271 76
D. J. Hanlon.....	April 9, 1896	1,500 00	1,500 00	303 43

* Exempt.

† First deputy commissioner of labor.

(a) Increased from \$5,000 Aug. 1, 1911.

(b) Reduced from \$1,200 Jan. 1, 1911.

(c) Resigned Feb. 28, 1911.

(d) Increased from \$3,000 Aug. 1, 1911.

(e) Increased from \$720 Nov. 1, 1910.

(f) Increased from \$1,000 Oct. 1, 1910.

(g) Transferred from another state department at \$600; increased to \$720 Apr. 16, 1911.

(h) Increased from \$1,200 Oct. 16, 1910.

POSITIONS AND OCCUPANTS. Deputy Factory Inspectors (53)— (continued):	Date of appointment.	Salary of position.	Amount received in 1911.	Traveling expenses in 1911.
Frank S. Nash.....	Feb. 1, 1895	\$1,500 00 ^(h)	\$1,487 50	\$399 35
J. S. Altschul.....	Nov. 28, 1906	1,200 00	1,200 00	313 22
J. W. Andrews**.....				20 01
Anna C. Bannon.....	Aug. 1, 1899	1,200 00	1,200 00	262 70
Maurice Barshell.....	July 1, 1906	1,200 00 ⁽ⁱ⁾	1,100 00	207 34
Charles Basner.....	Nov. 1, 1910	1,200 00 ^(j)	933 20	221 44
Hiram Blanchard ^(k)	June 15, 1887	1,200 00	700 00	.....
Jessie M. Bolin.....	Feb. 1, 1910	1,200 00 ^(j)	1,018 52	.....
C. G. Branch.....	Aug. 1, 1910	1,200 00 ^(j)	1,016 52	262 23
S. N. Brenner.....	July 1, 1906	1,200 00	1,200 00	281 01
H. P. Brown.....	Nov. 16, 1910	1,200 00 ^(j)	891 54	189 56
G. S. Cangialosi.....	July 1, 1906	1,200 00	1,200 00	335 75
Francis J. Coulan.....	Sept. 5, 1911	1,200 00	86 67	.....
G. C. Daniels.....	Jan. 15, 1908	1,200 00	1,200 00	183 72
James Davie.....	May 1, 1895	1,200 00	1,200 00	229 64
May G. Davies.....	Jan. 14, 1907	1,200 00	1,200 00	202 45
W. H. Donahue.....	July 1, 1906	1,200 00	1,200 00	358 85
Margaret Finn.....	July 1, 1890	1,200 00	1,200 00	206 36
W. S. Finney.....	Oct. 1, 1907	1,200 00 ^(l)	650 00	114 83
Lily F. Foster.....	Sept. 3, 1897	1,200 00	1,200 00	454 84
C. M. Gilmore ^(m)	April 1, 1903	1,200 00	550 00	99 71
Rebecca B. Gourlie.....	Sept. 16, 1896	1,200 00	1,200 00	190 29
Anna L. Greene ⁽ⁿ⁾	Sept. 28, 1910	1,200 00	210 00	64 67
W. H. Guyette.....	July 1, 1906	1,200 00	1,200 00	312 45
G. I. Harmon.....	April 9, 1896	1,200 00	1,200 00	662 60
Nathan Herstein.....	Mar. 4, 1907	1,200 00	1,200 00	300 40
G. L. Horn.....	June 1, 1900	1,200 00	1,200 00	236 17
J. W. Ireland.....	Feb. 1, 1897	1,200 00	1,200 00	582 69
William J. Jones ^(o)	April 1, 1911	1,200 00	200 00	67 55
William W. Jones.....	May 10, 1911	1,200 00	470 00	369 89
Kate L. Kane.....	July 11, 1895	1,200 00	1,200 00	416 96
C. M. Lessels.....	Aug. 1, 1899	1,200 00	1,200 00	547 93
W. G. Lownsberry.....	Aug. 1, 1899	1,200 00	1,200 00	580 98
A. J. Mackenzie.....	Aug. 1, 1910	1,200 00 ^(p)	1,191 66	294 09
C. F. Miller, Jr. ^(q)	Oct. 1, 1906	1,200 00	900 00	180 88
Ella Nagle.....	Mar. 23, 1893	1,200 00	1,200 00	224 32
W. J. Neely.....	Aug. 1, 1896	1,200 00	1,200 00	220 44
Robert Northrup ^(r)	Aug. 1, 1911	1,200 00	200 00	9 72
Joseph O'Rourke.....	May 1, 1895	1,200 00	1,200 00	589 24
Silas Owen.....	Aug. 1, 1899	1,200 00	1,200 00	595 69
William Pearson.....	Sept. 23, 1905	1,200 00	1,200 00	224 83
Josie A. Reilly.....	Oct. 1, 1896	1,200 00	1,200 00	647 18
W. M. Rich.....	July 1, 1906	1,200 00	1,200 00	267 65
Abraham Sirota.....	July 1, 1906	1,200 00	1,200 00	276 03
J. B. Sliter.....	Aug. 1, 1899	1,200 00	1,200 00	679 87
D. C. Sullivan.....	Oct. 1, 1892	1,200 00	1,200 00	239 60
W. E. Tibbs.....	June 1, 1896	1,200 00	1,200 00	770 06
J. H. Vogt.....	Oct. 1, 1908	1,200 00	1,200 00	276 44
G. C. Ward.....	April 11, 1910	1,200 00 ^(s)	1,016 52	263 88

(h) Increased from \$1,200 Oct. 16, 1910.

(i) On leave of absence one month without pay.

(j) Increased from \$1,000 Sept. 1, 1911.

(k) Died April 25, 1911.

(l) On 5½ months' leave of absence without pay (Mar. 15 to Sept. 1, 1911).

(m) Resigned Mar. 15, 1911.

(n) Reinstated Sept. 28, 1910; granted indefinite leave of absence without pay Dec. 1, 1910.

(o) Resigned June 1, 1911.

(p) Increased from \$1,000 Oct. 10, 1910.

(q) Granted indefinite leave of absence without pay July 1, 1911.

(r) Transferred from deputy mercantile inspector Aug. 1, 1911. (See below.)

(s) Increased from \$1,000 Sept. 1, 1911.

** Resigned Sept. 1, 1910; expense account not rendered until November, 1910.

POSITIONS AND OCCUPANTS.			Amount	Traveling
Deputy Factory inspectors (53)—	Date of	Salary of	received	expenses
(continued):	appointment.	position.	in 1911.	in 1911.
E. M. Wilber.....	Aug. 15, 1907	\$1,200 00	\$1,200 00	\$386 77
Florence C. Wilkinson.....	Oct. 1, 1907	1,200 00 ^(t)	1,191 86	254 73
J. R. Willis.....	July 16, 1910	1,200 00 ^(u)	1,086 56	227 12
S. T. Wilson.....	July 15, 1907	1,200 00	1,200 00	378 38
T. F. Woods.....	Oct. 10, 1910	1,200 00 ^(v)	991 00	227 61
D. S. Yard.....	Aug. 1, 1899	1,200 00	1,200 00	626 79
S. J. Owen.....	June 1, 1911	1,000 00	333 29	82 23
			<u>\$84,954 05</u>	<u>\$22,093 95</u>

BUREAU OF LABOR STATISTICS.

Chief Statistician:				
L. W. Hatch.....	Nov. 16, 1907	\$3,000 00	\$3,000 00	\$54 61
Senior Statisticians (3):				
G. A. Stevens.....	June 4, 1888	2,400 00	2,400 00	291 67
C. H. Sears.....	Oct. 1, 1910	2,000 00	2,075 00^(§)	.....
L. D. Jones.....	Nov. 16, 1910	1,800 00 ^(a)	1,700 00	111 31
Expert:				
E. B. Patton.....	Jan. 9, 1911	1,800 00	1,310 00	127 23
E. S. Whitin ^(b)	Dec. 8, 1908	1,800 00	375 00	127 27
Junior Statisticians (4):				
D. J. Naughtin.....	Sept. 23, 1897	1,500 00	1,500 00	198 16
D. A. Hausmann ^(c)	Dec. 23, 1908	1,200 00	800 00	304 60
S. B. Dicker.....	Feb. 27, 1911	1,200 00	707 14	104 32
R. R. Sherwood.....	Oct. 1, 1910	1,200 00	1,200 00	52 10
Special Agents (5):				
T. J. Hammill.....	Mar. 1, 1898	1,500 00	1,500 00	272 70
W. E. Pettit.....	June 7, 1898	1,500 00	1,500 00	334 96
D. W. O'Connor.....	Mar. 1, 1898	1,300 00	1,300 00	186 29
J. F. Bolin.....	Oct. 1, 1907	1,300 00	1,300 00	332 25
P. J. Honan.....	Oct. 1, 1907	1,300 00	1,300 00	256 84
Librarian:				
P. J. B. Haegy.....	Feb. 1, 1907	1,000 00	1,000 00	65 20
Clerks (3):				
Kate Shaffer.....	Sept. 14, 1886	1,500 00	1,500 00	.....
C. E. Force.....	Oct. 21, 1908	1,200 00 ^(d)	1,100 00	226 11
J. J. Anglum, Jr.....	Nov. 16, 1910	720 00 ^(e)	570 00	.....
Stenographers (2):				
Caroline E. Rosenbloom.....	Oct. 1, 1910	900 00	900 00	.....
Marie A. L. Moloney ^(f)	July 1, 1911	600 00	330 00	.....
Ida B. Frank ^(g)	Feb. 1, 1910	720 00	360 00	.....
			<u>\$27,727 14</u>	<u>\$3,045 62</u>

BUREAU OF MEDIATION AND ARBITRATION.

Chief Mediator:				
W. C. Rogers.....	Oct. 16, 1910	\$3,500 00 ^(h)	\$2,958 33	\$991 79
John Lundrigan ⁽ⁱ⁾	Mar. 21, 1901	3,000 00	125 00	227 53
Mediator:				
M. J. Reagan.....	July 10, 1905	2,500 00	2,500 00	505 81

(t) Increased from \$1,000 Oct. 10, 1910.

(u) Increased from \$1,000 June 1, 1911.

(v) Increased from \$1,000 Sept. 1, 1911.

(a) Increased from \$1,500 Feb. 1, 1911.

(b) Resigned Dec. 15, 1910.

(c) Resigned Dec. 31, 1910; reappointed May 1, 1911.

(d) Increased from \$900 Feb. 1, 1911.

(e) Increased from \$600 May 16, 1911.

(f) Temporary appointment April 1, 1911, at \$720; made permanent July 1, 1911, at \$600.

(g) Granted 3 months' leave of absence without pay April 1, 1911; resigned July 1, 1911.

(h) Increased from \$3,000 Aug. 1, 1911.

(i) Resigned Oct. 15, 1910.

§ Includes \$75 for special services rendered in September, 1910.

POSITIONS AND OCCUPANTS.	Date of appointment.	Salary of position.	Amount received in 1911.	Traveling expenses in 1911.
Assistant Mediators (2):				
P. J. Downey.....	Oct. 1, 1907	\$1,500 00	\$1,500 00	\$585 43
James McManus.....	Oct. 1, 1907	1,500 00	1,500 00	513 00
Special Agent:				
J. J. Bealin.....	June 26, 1896	1,500 00	1,500 00	203 48
Clerk:				
Mabel L. Crouse.....	Oct. 1, 1906	900 00	900 00	.....
			<u>\$10,983 33</u>	<u>\$3,027 04</u>

BUREAU OF MERCANTILE INSPECTION.

Mercantile Inspector:				
J. L. Gernon.....	Oct. 1, 1908	\$2,500 00	\$2,500 00	\$802 44
Deputy Mercantile Inspectors (8):				
Eunice Burton.....	July 1, 1910	1,000 00	1,000 00	301 07
Mary L. Carbon.....	Oct. 1, 1908	1,000 00	1,000 00	232 78
P. F. Connelly.....	Sept. 1, 1911	1,000 00	83 33	.....
E. P. Dunham.....	Nov. 1, 1910	1,000 00	916 68	311 77
F. L. Fisher.....	Oct. 1, 1908	1,200 00 ^(j)	1,016 67	509 73
J. P. Harsha.....	Oct. 1, 1908	1,200 00 ^(j)	1,016 67	331 31
Robert Northrup ^(k)	Oct. 1, 1908	1,000 00	833 20	333 53
Nathan Schwartz.....	Dec. 1, 1909	1,000 00	1,000 00	303 15
Edward Quigley.....	Oct. 1, 1908	1,200 00 ^(j)	1,016 67	296 11
Clerk:				
Annie Schlesinger.....	Oct. 1, 1908	900 00	900 00	.....
Stenographer:				
May L. Honner.....	Oct. 1, 1908	900 00	900 00	.....
			<u>\$12,183 22</u>	<u>\$3,421 89</u>

BUREAU OF INDUSTRIES AND IMMIGRATION.

Chief Investigator:				
Frances A. Kellor.....	Oct. 1, 1910 ^(l)	\$2,500 00	\$2,500 00	.....
Special Investigators (4):				
Carola Woerishoffer ^(m)	Dec. 8, 1910 ⁽ⁿ⁾	1,200 00	920 97	.....
Alfred Marcus.....	Jan. 9, 1911	1,200 00	872 58	\$176 39
L. C. Wagner.....	Jan. 9, 1911	1,200 00	872 58	238 76
I. G. Brine.....	Jan. 16, 1911	1,200 00	850 00	318 07
Joseph Mayper.....	Jan. 16, 1911	1,200 00	850 00	182 14
Antonio Daniele.....	Oct. 10, 1910 ^(o)	1,200 00	291 96	202 05
J. S. Henry.....	Oct. 10, 1910 ^(o)	1,200 00	291 96	34 40
M. J. Sullivan.....	Oct. 10, 1910 ^(o)	1,200 00	291 96	128 35
G. C. Troiano.....	Oct. 26, 1910 ^(p)	1,200 00	69 35	41 14
George Bartasius.....	Dec. 8, 1910 ^(o)	1,200 00	98 39	17 95
Stenographers:				
C. M. Hoffman.....	Feb. 1, 1911	1,200 00	800 00	19 75
Edith I. Davis ^(q)	Dec. 1, 1910	1,200 00	150 00	.....
G. E. Hart ^(r)	Aug. 2, 1911	1,200 00	196 67	.....
			<u>\$9,056 42</u>	<u>\$1,359 00</u>

(j) Increased from \$1,000 Sept. 1, 1911.

(k) Transferred to deputy factory inspector Aug. 1, 1911. (See above.)

(l) Appointed provisionally, Oct. 1, permanently, Dec. 1, 1910.

(m) Killed Sept. 11, 1911.

(n) Appointed provisionally Dec. 8, 1910; permanently, Jan. 9, 1911.

(o) Provisional appointment, which terminated Jan. 7, 1911.

(p) Provisional appointment, which terminated Nov. 15, 1910.

(q) Resigned Jan. 15, 1911.

(r) Temporary appointment.

TEMPORARY EMPLOYEES.

POSITIONS AND OCCUPANTS.	Date of appointment.	Salary of position.	Amount received in 1911	Traveling expenses in 1911
Clerks:				
W. L. Johnson.....	\$83 80	.....
Iantha Emmerling.....	23 96	.....
Irene B. Gladding.....	23 96	.....
Stenographer:				
Justina M. Grogan.....	170 33	.....
			<u>\$302 05</u>	.....
			<u>\$161,299 58</u>	<u>\$35,891 10</u>

APPENDIX II.

GENERAL REPORT OF BUREAU OF FACTORY INSPECTION.

(A) REPORT OF THE FACTORY INSPECTOR.

HON. JOHN WILLIAMS,

Commissioner of Labor, Albany, N. Y.

SIR: The following brief statements cover the work performed by the Bureau of Factory Inspection during the year ended September 30, 1911:

I. WORK OF DEPUTY FACTORY INSPECTORS.

	1911.	1910.	1909.	1908.	1907.
Regular inspections:					
Factories in separate buildings.....	11,733	12,178	11,571	11,854	12,431
Tenant factories.....	26,281	25,847	24,304	23,480	22,974
Laundries.....	2,483	2,320	2,359	1,945	1,967
Bakeries.....	4,996	4,156	4,853	4,101	3,874
Mines and quarries.....	128	84	121	118	173
Tunnel workings.....	74	46	13	22	.....
Tenant factory buildings.....	141	150	277	125	820
Tenement buildings (licensed).....	13,402	12,035	10,219	8,751	4,577
Total.....	<u>59,238</u>	<u>56,816</u>	<u>53,717</u>	<u>50,396</u>	<u>46,816</u>
Special inspections.....	2,063	1,368	1,147	1,427	1,476
Investigations:					
Applications for license.....	1,761	1,835	3,179	3,195	3,740
Complaints.....	920	938	870	603	643
Compliances.....	†44,137	‡35,460	‡30,640	*32,448	34,863
On special orders.....	1,659	2,967	3,074	3,473	1,412
Total.....	<u>48,477</u>	<u>41,200</u>	<u>37,763</u>	<u>39,719</u>	<u>40,658</u>
Observations:					
Tenement buildings (unlicensed).....	1,687	2,125	2,135	4,736	5,430
Tunnel workings.....	118	75	200	186	.....
Tagging to stop work:					
Goods in tenements (\$ 100).....	78	126	104	71	251
Goods in tenant factories (\$ 95).....	357	469	399	446	356
Articles in bakeries (\$ 114).....	61	191	59	14	26
Unsafe machinery (\$ 81).....	.....	.....	3	11	.....
Scaffolding (\$ 19).....	8	.....	1	3	1
Total.....	<u>504</u>	<u>786</u>	<u>566</u>	<u>545</u>	<u>634</u>
Prosecutions begun**.....	413	610	511	743	374

* Includes 19,211 first and 13,237 subsequent visits.

† Includes 28,045 first and 16,092 subsequent visits.

‡ Includes 19,775 first and 10,865 subsequent visits.

§ Includes 21,929 first and 13,531 subsequent visits.

** See detailed table of prosecutions below.

2. TENEMENT MANUFACTURERS.

STATEMENT OF LICENSES FOR ENTIRE PERIOD OF AMENDED LAW (OCT. 1, 1904-SEPT. 30, 1911).

	New York City.	Remainder of State.	Total.
Total applications received.....	16,551	586	17,137
Total applications granted.....	15,058	582	15,640
Total applications refused (net)*.....	27	4	31
Applications canceled.....	1,460	.....	1,460
Applications pending.....	6	.....	6
Licenses canceled at request of licensee.....	1,772	131	1,903
Licenses revoked for unlawful conditions.....	73	.....	73
Total number of licensed premises.....	13,213	451	13,664

RECORD OF LICENSES FOR 1911.

	New York City.	Re- mainder of State.	Total.	Total, 1910.
Applications pending Oct. 1.....	20	.....	20	12
Applications received during year.....	1,368	19	1,387	1,647
Total.....	1,388	19	1,407	1,659
On first investigation:				
Applications granted.....	1,199	19	1,218	1,462
Applications refused.....	165	.....	165	154
Applications canceled.....	18	.....	18	28
Applications pending Sept. 30, 1911.....	6	.....	6	20
On reinvestigation of applications previously refused:				
Applications granted.....	186	.....	186	119
Applications refused again.....	33	.....	33	38
Applications canceled.....	122	.....	122	43
Total.....	341	.....	341	200
Licenses canceled at request of licensee.....	971	119	1,090	277
Licenses revoked for unlawful conditions.....	42	.....	42	11
Net increase or decrease in —				
Outstanding licenses.....	+372	-100	+272	+1,293
Refused applications.....	-143	.....	-143	-8
Canceled applications.....	+140	.....	+140	+66
Outstanding licenses Sept. 30.....	13,213	451	13,664	13,392

* A total of 4,768 applications (all but 27 in New York City), have been refused on first investigation; but all but 31 of these were afterward granted or canceled on reinvestigation.

3. CHILDREN FOUND IN FACTORIES.

UNDER 16 BUT NOT UNDER 14,

COUNTY.	EMPLOYED —				UNDER 14 YEARS.		Total children under 16.
	LEGALLY.*		ILLEGALLY.†		(Illegally employed.)		
	Boys.	Girls.	Boys.	Girls.	Boys.	Girls.	
Albany.....	111	162	.....	1	.....	.....	274
Allegany.....	3	3	.....	.....	.....	.....	6
Broome.....	23	35	.....	2	1	.....	61
Cattaraugus.....	30	11	.....	.....	.....	.....	41
Cayuga.....	63	46	.....	.....	.....	.....	109
Chautauqua.....	70	60	.....	.....	.....	.....	130
Chemung.....	5	6	.....	3	3	.....	17
Chenango.....	17	11	.....	2	2	.....	32
Clinton.....	2	.....	.....	.....	.....	.....	2
Columbia.....	27	30	.....	.....	1	.....	58
Cortland.....	1	2	.....	4	.....	.....	7
Delaware.....	1	.....	.....	1	.....	.....	2
Dutchess.....	18	53	.....	.....	.....	.....	71
Erie.....	547	534	34	51	5	.....	1,171
Franklin.....	14	.....	.....	2	.....	.....	16
Fulton.....	52	44	.....	1	.....	.....	97
Genesee.....	15	6	.....	1	1	1	25
Greene.....	3	2	.....	2	.....	.....	7
Herkimer.....	21	13	.....	.....	.....	.....	34
Jefferson.....	7	7	.....	1	.....	.....	15
Kings‡.....	558	1,451	66	113	11	13	2,212
Lewis.....	.....	5	.....	.....	.....	.....	5
Livingston.....	2	10	.....	.....	.....	.....	12
Madison.....	16	10	.....	1	.....	.....	27
Monroe.....	334	468	12	22	.....	.....	836
Montgomery.....	92	105	1	.....	.....	.....	198
Nassau.....	8	9	.....	.....	.....	.....	17
New York‡.....	1,386	3,032	143	174	23	58	4,816
Niagara.....	83	105	16	17	5	.....	226
Oneida.....	146	284	3	5	.....	.....	438
Onondaga.....	137	183	1	2	1	.....	324
Ontario.....	3	15	.....	3	.....	.....	21
Orange.....	61	37	.....	.....	.....	.....	98
Orleans.....	12	1	.....	1	2	.....	18
Oswego.....	47	59	4	.....	1	.....	111
Otsego.....	5	3	.....	2	.....	1	13
Queens‡.....	146	495	11	2	3	.....	657
Rensselaer.....	54	57	.....	.....	.....	.....	111
Richmond‡.....	27	52	.....	1	1	.....	81
Rockland.....	37	24	.....	.....	.....	.....	61
St. Lawrence.....	6	3	.....	1	.....	.....	10
Saratoga.....	7	11	.....	.....	.....	.....	18
Schenectady.....	33	5	.....	.....	.....	.....	38
Schoharie.....	.....	1	.....	.....	.....	.....	1
Seneca.....	11	13	.....	.....	.....	.....	24
Steuben.....	2	3	.....	.....	.....	.....	5
Suffolk.....	48	44	.....	.....	.....	.....	92
Sullivan.....	.....	.....	.....	3	.....	.....	3
Tioga.....	2	7	.....	.....	.....	.....	9
Tompkins.....	.....	1	.....	.....	.....	.....	1
Ulster.....	91	138	.....	.....	.....	.....	229

* i. e. having employment certificates.

† i. e. not having employment certificates.

‡ New York City.

3. CHILDREN FOUND IN FACTORIES—Continued.

UNDER 16 BUT NOT UNDER 14,

COUNTY.	EMPLOYED —				UNDER 14 YEARS.		Total children under 16.
	LEGALLY.*		ILLEGALLY.†		(Illegally employed.)		
	Boys.	Girls.	Boys.	Girls.	Boys.	Girls.	
Warren.....	2	1	.....	.....	.....	.....	3
Washington.....	11	13	.....	2	.....	.....	26
Wayne.....	6	11	.....	.....	.....	.....	17
Westchester.....	50	62	8	4	1	.....	125
Wyoming.....	6	11	.....	.....	.....	.....	17
Yates.....	6	2	.....	.....	.....	.....	8
Total: 1911.....	4,465	7,756	330	406	51	75	13,083
1910.....	4,514	6,947	314	445	57	53	12,330
1909.....	4,182	5,411	323	419	44	36	10,415
1908.....	4,711	5,434	672	656	144	161	11,778
1907.....	5,999	6,483	1,212	1,123	108	57	14,982

4. NUMBER OF CHILDREN'S EMPLOYMENT CERTIFICATES ISSUED BY BOARDS OF HEALTH IN FIRST AND SECOND CLASS CITIES.

New York City:*	1911.	1910.	1909.	1908.	1907.
Bronx Borough.....	3,783	3,186	2,450	2,101	1,875
Brooklyn Borough.....	13,548	11,214	8,910	5,354	1,078
Manhattan Borough.....	19,860	18,261	14,936	12,772	12,266
Queens Borough.....	2,719	2,262	1,596	607	669
Richmond Borough.....	127	137	120	103	144
Total.....	40,037	35,060	28,012	20,937	16,032
Buffalo.....	1,203	1,403	1,123	832	1,250
Rochester.....	1,685	1,378	1,066	556	965
Syracuse.....	802	930	856	674	816
Albany.....	169	258	174	110	231
Troy.....	311	364	306	280	361
Utica.....	479	638	406	288	440
Yonkers.....	198	135	195	105	113
Schenectady.....	331	312	204	134	280

* Figures for New York City include "mercantile" as well as "manufacturing" certificates.

5. SUMMARY OF PROSECUTIONS (FACTORIES AND MINES).

RESULTS TO SEPTEMBER 30, 1911.

OFFENSE.	No. of cases.	Pend- ing.	Dis- missed or ac- quitted.	CONVICTED.		
				With- drawn.	Sen- tence sus- pended.	Fined. Fines.
(A). Proceedings Instituted Before October 1, 1910.						
II. SANITATION AND SAFETY:						
Failure to provide lights in halls, § 81.....	1				1	\$25
Failure to provide lights in water-closets, § 88.....	1				1	25
Failure to ventilate factory, § 86.....	2			2		
Failure to provide dressing rooms for females, § 88.....	5				3	2 50
Failure to clean and disinfect water-closets, § 88.....	1				1	50
Failure to repair water-closets, § 88.....	1				1	25
Failure to clean floors of workrooms, § 84..	1				1	25
Failure to guard shafting, § 81.....	1				1	
Failure to provide exhaust system, § 81....	2				2	
III. CHILDREN:						
Employing child under 14, § 70.....	15		1	2	4	8 175
Employing child under 16 without Board of Health certificate, § 70.....	45	2	4		23	16 345
Employing child under 16 more than 8 hours a day, or before 8 a. m. or after 5 p. m., § 77.....	6				3	3 100
VII. BAKERIES:						
Failure to plaster stone walls of bakeroom, § 112.....	1				1	
X. MISCELLANEOUS:						
Failure to pay wages weekly, § 10.....	1	1				
Failure to pay wages in cash, § 11.....	1	1				
Total.....	84	4	5	4	37	34 \$320

(B). Proceedings Instituted in Current Year.

I. ADMINISTRATION:						
Failure to report accidents, § 87.....	1				1	
Interfering with deputy factory inspector in the performance of his duties, § 62...	1				1	
II. SANITATION AND SAFETY:						
Failure to provide lights in halls or stairs, § 81.....	3	3				
Failure to provide lights in water-closets, § 88.....	3	2			1	
Failure to provide 250 cu. ft. of air space for each employee between 6 a. m. and 6 p. m., § 85.....	2				1	1 \$50
Failure to provide proper and sufficient means of ventilation, § 86.....	3		2	1		
Failure to provide dressing rooms for females, § 88.....	28	3	1		22	2 40
Failure to provide additional or separate water-closets, § 88.....	3		1		2	
Failure to clean water-closets, § 88.....	8	4	1		3	
Failure to provide means for flushing water-closets, § 88.....	1	1				
Failure to repair water-closets, § 84.....	1				1	
Failure to clean floors of workrooms, § 84..	2	1	1			
Failure to limewash or paint walls or ceilings, § 84.....	4	1			3	
Failure to have boiler inspected, § 91.....	1		1			
Failure to provide exhaust system, § 81....	10	3	2		4	1 25
Failure to countersink set screws, § 81.....	2		1		1	
Failure to guard saws, § 81.....	4	1				3 70
Failure to guard sewing machines, § 81....	1	1				
Failure to guard miscellaneous machinery, § 81.....	2		2			
Failure to remove bars from doors or windows, §§ 80, 83.....	4	1			3	
Failure to unlock doors during working hours, § 80.....	11	1				7 185

5. SUMMARY OF PROSECUTIONS (FACTORIES AND MINES)—Concluded.

(B). Proceedings Instituted in Current Year—Concluded.

RESULTS TO SEPTEMBER 30, 1911.

OFFENSES.	No. of cases.	Pend- ing.	Dis- missed or ac- quitted.	CONVICTED.			
				With- drawn.	Sen- tence sus- pended.	Fined.	Fines.
Failure to provide handrails on stairways, § 81.....	3		1		2		
Failure to cease using unsafe scaffolding, § 19.....	1		1				
Failure to provide access to fire-escape, § 82.....	1	1					
Failure to provide doors to open outwardly, § 80.....	1	1					
III. CHILDREN:							
Employing child under 14, § 70.....	62	25	6		18	13	\$290
Employing child under 16 without Board of Health certificate, § 70.....	112	40	16		28	28	560
Employing child under 16 more than 8 hours a day, or before 8 a. m., or after 5 p. m., § 70.....	110	21	12	1	47	29	625
Employing child under 16 in bottling establishment, § 93.....	1				1		
IV. WOMEN AND MINORS:							
Employing female under 21 before 6 a. m., or after 9 p. m., § 77.....	3				2	1	25
Employing female over 16 more than 10 hours a day, § 77.....	9				4	5	110
Employing female more than 6 days a week, § 77.....	3		1		1	1	50
Employing female more than 60 hours a week, § 77.....	2				1	1	50
VI. WORKSHOPS IN TENEMENTS:							
Permitting goods to be manufactured in unlicensed tenement houses, § 100.....	2	1			1		
VII. BAKERIES:							
Failure to provide or repair floor, § 113....	1		1				
Failure to provide pipe and hood over oven door or fire-pit, § 112.....	1	1					
Failure to remove water-closet from bakery, § 112.....	3	2	1				
X. MISCELLANEOUS:							
Failure to pay wages weekly, § 11.....	3					3	*150
Total.....	413	114	51	2	151	95	\$2,230
Grand Total.....	497	118	56	6	188	129	\$3,050

* Three cases in which judgments for \$50.00 each were secured under § 12.

6. ACCIDENTS REPORTED IN FACTORIES, MINES, QUARRIES AND CONSTRUCTION WORK IN YEAR ENDED SEPTEMBER 30, 1911.

INDUSTRY.	ACCIDENTS BEFORE OCT. 1, 1910. REPORTED THEREAFTER.		ACCIDENTS DURING YEAR ENDED SEPTEMBER 30, 1911. REPORTED PRIOR TO NOVEMBER 1, 1911.			
	Total.	There- of fatal.	THEREOF—			
			Total.	Women.	Children under 16.	Fata cases*
(a) FACTORIES.						
I. Stone, clay and glass products..	28	5	786	30	1	12
II. Metals, machinery and convey- ances.....	387	9	27,650	605	51	73
III. Wood manufactures.....	85	2	2,393	22	10	20
IV. Leather and rubber goods.....	17	.....	859	113	20	5
V. Chemicals, oils, paints, etc.....	51	2	2,403	96	6	26
VI. Paper and pulp.....	37	1	1,599	9	2	18
VII. Printing and paper goods.....	27	.....	1,412	298	22	4
VIII. Textiles.....	40	.....	2,134	549	22	13
IX. Clothing, millinery, laundry, etc.....	17	1	746	374	12	154
X. Food, liquors and tobacco.....	54	4	2,882	255	5	28
XI. Water, light and power.....	38	7	1,660	1	1	19
XII. Building industry (shops).....	2	.....	15	.....	.....	.....
XIII. Miscellaneous.....	1	.....	12	.....	1	3
Total.....	784	31	44,551	2,352	153	375
(b) MINES AND QUARRIES.						
I. Mines.....	35	1	453	.....	.....	18
II. Quarries.....	19	2	466	.....	.....	5
Total.....	54	3	919	.....	.....	23
(c) BUILDING AND ENGINEERING.						
I. Excavating.....	59	5	6,884	.....	4	126
<i>Thereof shafts and tunnels.....</i>	59	5	3,289	.....	1	40
II. Erecting and structural work.....	.....	.....	4,456	.....	4	80
III. Finishing and furnishing.....	.....	.....	1,565	.....	.....	65
IV. Wrecking and moving.....	.....	.....	112	.....	.....	6
V. Other or miscellaneous.....	.....	.....	2,318	.....	1	40
Total.....	59	5	15,335	.....	9	317
Grand Total.....	897	39	60,805	2,352	162	715

* That is, known to be fatal at time of report.

WORK OF DEPUTY FACTORY INSPECTORS.

On the 28th day of March, 1911, I was honored by the Commissioner of Labor with appointment to the office of First Deputy Commissioner of Labor and Chief Factory Inspector.

The work of the bureau of factory inspection was taken up at once and I proceeded to familiarize myself with the duties of the position to which I had been appointed.

No radical changes were made in the bureau owing to the fact that legislation on the Phillips bill was pending and this measure provided for the re-organization of the Department. When this re-organization takes place and is in working order, I believe it will result in giving to the State of New York a much improved system of factory inspection.

Under the new law we now have a mechanical engineer who is devoting special attention to the matter of proper guards for machinery, prevention of accidents, etc. As the result of the work of this expert, we hope later on to have a uniform system of orders to guard machinery.

Since my connection with this bureau a new mine inspector has been appointed and he has proved himself to be a very capable and earnest inspector. He is doing excellent work in the thorough inspection of the mines and quarries of the state.

There has also been recently appointed an additional tunnel inspector who will be able to take up the wonderfully increased tunnel work now being carried on throughout the State of New York.

Eight regular inspectors have been assigned to work under the immediate supervision of the superintendent of licenses. These inspectors will confine their efforts to the thorough inspection of tenements and places affected by the provisions of section one hundred of the labor law.

While great credit is due our inspectors and our force generally, for the amount and character of the work accomplished during the year just closed, we hope, with our increased force and the contemplated re-arrangement of the work of the bureau, to perform better service and cover a greater amount of work during the coming year. It is the purpose to have more frequent inspections

made of the places most needing our watching and supervision. In many instances it has been clearly demonstrated to us that even with constant surveillance it is a difficult matter to have the standard maintained.

During the year ended September 30, 1911, the force of inspectors in this bureau made regular inspections throughout the state, including factories, laundries, mines, tunnels and tenement houses, to the number of 59,238. This number exceeds our figures for the year 1910 by 2,422. The total number of inspections made shows a steady increase each year. The number of places to be inspected is growing each year, and it is with pleasure we refer to the increased number of inspectors given to the Department to care for this steadily increasing business.

The growing popularity of the modern loft building is clearly evidenced by the fact that in New York City alone the number of factories located in such buildings numbered 26,281 for the past year, while the number for the year 1910 was 25,847.

A tenant-factory building, as was explained in our report for last year, is a building with at least two tenants, one of which is a factory.

In addition to over 59,000 regular inspections, 48,477 visits were made on applications for licenses, in the investigation of complaints and compliances with orders. Of the visits on compliances, 28,045 were first and 16,092 were second or subsequent visits.

A decrease is noted from 126 tagging cases in tenements in 1910 to 78 in the year 1911, while 112 fewer tenant factories were tagged in 1911 than in 1910.

In bakeries the ovens and utensils were tagged in 61 cases. The total number of bakeries inspected in 1910 was 4,156 while during the past year 4,996 bakeshops were visited by our inspectors, this being an increase of 840 bakeries inspected.

The total number of prosecutions instituted by officials of the factory inspection bureau was 413.

Counsel, F. H. Cunningham, and his assistant, Charles Whelan, deserve credit for the amount of work handled in the courts and the results obtained through legal actions instituted by them for violations of the law, as enforced by this bureau.

COMPLAINTS.

In the matter of complaints filed with this bureau it is found to be very unsatisfactory to handle those sent here anonymously, because, in many instances, our investigations show that we have no jurisdiction in the premises and we are not able to convey information to those sending in the complaints.

As soon as complaints are received they are accorded prompt and careful attention, whether or not they are signed.

In no instance is the source of our information divulged. No action is taken against any manufacturer solely on the facts submitted in the complaint. Our inspector makes investigation and if the conditions found by the official warrant action by this bureau, such action is based on the report of our own representative.

During the past year, as is usual, many complaints, signed and anonymous, have been received by the bureau, alleging the failure of incorporated concerns to pay employees weekly and in cash, as provided in the statute.

When such complaints have been sustained by our inspectors' findings on investigation, legal notices have been issued requiring immediate compliance with the law. We have been generally successful in securing compliances with these special notices.

ACCIDENTS.

As will be noted by the summary of accidents, the law in regard to the prompt reporting thereof is being complied with very satisfactorily.

However, to my mind, there is still room for improvement in this direction. A special effort will be made by the bureau during the coming year to secure even a greater observance of this requirement of the law.

The amendment to section 87 of the law, requiring that the person in charge of any factory shall keep a correct record of all deaths, accidents or injuries sustained by any person therein or on the premises, in such form as may be required by the commissioner of labor, the record to be open to our inspectors when they are on the premises, will prove of great assistance to the factory bureau in perfecting its work in the collection of information relating to

accidents and injuries in factories. A sample showing the form in which this office record of accidents is to be kept, is furnished in response to requests and inquiries for information about this matter and the same is set up in the following form :

Pursuant to the provisions of the statute in effect October 1, 1910, the commissioner of labor will require that there be kept in the office of each factory, a record which shall contain the information as set forth in the following sample form:

Name of firm:.....

LIST OF EMPLOYEES INJURED. BEGINNING OCTOBER 1, 1910.

Serial No.	Name of employee.	Occupation at time of accident.	Home address.	Date of accident.	Date rep't'd to Albany.
1.
2.
3.

Not only must the above record be kept in the factory, mine or quarry office, but all accidents and injuries must be reported to the Factory Inspector, within 48 hours after their occurrence. Forms for this purpose are furnished by the Factory Inspector on request.

Failure to keep the record and to report accidents is a misdemeanor.

Many questions come to the bureau regarding the accidents that are to be reported. An effort is made by this office and by our officials in the field, to make it very clear to those affected by the statute, that reports are required covering only such accidents and injuries as happen in the factory or on the factory premises.

A word of explanation is necessary with regard to the enormous increase in the number of accidents reported this year as compared with last. This increase in reported accidents throws absolutely no light upon the question of whether accidents in factories in this state are increasing in number or not. The increase is rather explained by changes in the method or completeness of reporting. Some of the increase is probably due to more nearly complete reporting of all cases, due to increased efforts by the bureau to insure reporting this year; but, most of the increase is due to a change made at the beginning of this year, in the specification of reportable accidents.

Prior to this year employers were required to report only accidents causing "cessation from work for at least half a day (five hours or more)" but on October first, 1910, this limit was abolished and thereafter all accidents were required to be reported which caused any interruption of work for the employee. The main reason for this change was the consideration that as an indicator of

danger a trivial accident may be quite as significant as a serious one. This change accounts for the fact that the increase in number of accidents reported to nearly double the number last year, is almost entirely in the number of non-fatal accidents.

CHILD LABOR.

To those interested in the work performed and the results accomplished by the factory inspection bureau, there is not a more interesting subject than that of child labor. Violation of the child labor provisions of the law has furnished a large number of cases for prosecution during the year.

Coming into the department with an especially keen interest in this particular phase of the work of the factory inspection bureau, I was surprised to find that the child labor problem was so well in hand. The law requiring employment certificates for children between 14 and 16 years of age, can be considered as generally observed.

There has, however, come to my special attention, a surprisingly large number of violations in the matter of employing children under 16 years of age in excess of eight hours per day and before eight o'clock in the morning and after five o'clock in the evening.

Shortly after I assumed my duties as chief of the factory bureau, a vigorous crusade was started to wipe out as far as possible illegal practices in the hours permitted or required of children employed in factories. The inspectors, under my personal direction and instruction, were sent out in squads in Greater New York, to clean up every case that could be found of violation of the law in this respect. In the case of one hundred and thirty-seven concerns we were able to establish violations as to illegal hours for children and the delinquents were taken into court.

There will be no cessation of our efforts along this particular line. We will aim to bring about strict observance of the law regulating hours of labor of children employed in factories and no labor will be spared to impress upon the employers of children, the fact that they may expect no leniency when found violating the child labor provisions of the statute. The question of the hours permitted and required of children in factories is one of economic

importance to the state and our energies will be concentrated on the wiping out of violations of this kind.

For the year ended September 30th, 1911, 13,083 children under the age of sixteen years were found employed in the factories of this state, exceeding the number employed in 1910 by 753. Of the total number employed, 126 were under the age of fourteen years, and in every case where sufficient evidence of the age of the child could be obtained by the inspector, the employer was taken into court.

A total of 12,957 children between the ages of fourteen and sixteen years was found employed, 736 of whom were illegally at work.

The continued decrease in the number of children illegally employed, between 14 and 16 years of age, is shown in the following:

1907.....	15.8
1908.....	11.6
1909.....	7.2
1910.....	6.2
1911.....	5.6

SAFETY.

From personal observation it is very clear to my mind that one of the most objectionable and serious obstacles to safe conditions in factories, is the wooden partition found entirely too frequently in the shops and factories where facilities for escape in case of fire are all but wholly inadequate.

In many instances we have been fortunate in having these partitions removed or changed, merely as a result of earnest and urgent suggestion on our part. However, under the law we have no actual authority in a matter of the kind and in a number of cases we have been unable to get changes made which would materially improve conditions in the shops. These partitions not only obstruct but are a menace in case of fire.

VENTILATION.

Since my connection with this bureau our field force has not been required to accord any special attention to the matter of ventilation in factories inasmuch as under the present law it is

almost impossible to secure satisfactory compliance with this provision of the statute.

In some instances where atmospheric conditions were found to be particularly bad, improvement in the air conditions has been insisted upon. In every case where compliance with the law has been demanded, we have firmly refused to approve the apparatus installed, making it clear to those interested that the bureau insisted on proper air conditions and would approve and accept only such conditions as met the requirements of the law and the standard established by the department.

It is to be hoped that very soon a legal standard will be established so that the bureau may be enabled to enforce provisions of the law calling for improved air conditions in unsanitary factories.

TENEMENT MANUFACTURES.

During the entire period in which the present tenement house law has been effective, 17,137 applications for licenses have been received, all but 586 of which were in Greater New York. During the year 1911, 1,387 applications were made. Of these, 33 stood refused at the close of the year, 140 were canceled and 6 were pending on September 30, 1911.

The tenement inspection work during the year was accorded particularly careful attention and the field force covered practically all of the licensed tenements and rear shop buildings in Greater New York.

At the time inspections were made by our officials, persons to the number of 19,628 were found working in 12,982 apartments. Of the persons employed, 4,146 were working in 1,472 separated shops in stores, wherein the license features of the tenement house law do not apply.

Persons to the number of 239 were illegally employed, while 107 children of school age were working during the sessions of the public schools. Cases of disease reported in licensed houses numbered 64, but only 2 cases were found in apartments where work was being done.

The sanitary condition of licensed tenements generally was found to be very satisfactory. Orders were issued against 310

buildings, while in rear shop buildings, only 23 were found to require orders.

In treating the subject of tenement work, the following from the report of the Superintendent of Licenses, Daniel O'Leary, concerning work in New York City, is respectfully submitted.

The total of all licensed tenement houses inspected numbers 12,632, and the number of licensed rear buildings, commonly designated "rear shops," is 405, making a total of all licensed tenement buildings inspected during the year of 13,037. These figures exceed those of 1910 by 1,194 buildings.

In the 12,632 licensed tenement houses 153,156 separate apartments were scrutinized besides cellars and basements and other parts of buildings not used in common and not used for living purposes. Licensed tenement houses to the number of 5,291 were found to contain no workers at the time of inspection. There were 1,472 store shops, or apartments that were found wholly devoted to work purposes and having no connection whatever with living rooms. In these store shops were found employed 4,146 persons including the proprietors of such shops.

The whole number of persons found at work in tenement houses, including those employed in shops therein, is 19,628. The number of persons found actually at work in living rooms on articles coming under § 100 is shown to be 15,280. The total number of apartments found in use under the law in tenement houses, 12,982. This number includes 1,472 stores and other shops in tenement houses, and makes the number of living apartments or rooms which were found in actual use under § 100 to be 11,510, which number of living apartments or rooms contained 15,280 workers.

Again this year a slight falling off is shown in the number of rear shops. In 1910, 431 recorded licensed rear shops were reported. This year we show only 405. I repeat my statement of last year, to wit, that this class of old-time and troublesome shop buildings is gradually disappearing. The chief cause is the construction of new and up-to-date shop buildings in which better accommodations are provided and which are vastly more satisfactory to both the employer and his employees.

Of the 405 rear shops visited, 103 were found closed or devoted to other business. Only 23 orders were issued against the 302 shops found in use. This is very satisfactory as showing the sanitary conditions prevailing. In the 302 shops were found employed 5,438 persons.

Only 310 of the 12,632 licensed tenement houses inspected received orders of any kind. In all, 42 licenses were revoked for purely sanitary reasons. Cases of disease reported in licensed houses numbered 64, but in only two apartments was disease found where work was proceeding, and none was found in shops.

There were 107 children of school age found at work in their homes during school hours, all of whom were promptly reported to the Associate City Superintendent of Schools for attention under the Compulsory Education Law. There is no provision of law placing this duty upon this Department, but I feel that the Department should have some record on the subject of the employment of children in the home, who are of school age, at least

in so far as their employment may relate to work under § 100. Consequently, I have instructed the inspectors to carefully watch for children employed in their homes during the sessions of the public schools, to closely question and report any so found and ascertain whether they attend school, cause of absence, etc., with results as above noted.

There were 239 persons found illegally employed in living rooms, i. e., 239 persons who were not living in the apartments in which they were found at work. All such violations were dealt with promptly, that is they were discharged by the tenant who hired them on the order of the inspector when found or if not, the work of such tenant was promptly stopped by the use of the tenement tag.

There were 971 licenses canceled for reasons other than sanitary, and 42 licenses were revoked for foul or unclean conditions found in the buildings for which they were issued; 1,404 new licenses were written; 1,368 new applications were filed; 1,406 notices were sent out to owners of tenement houses under § 105; 1,698 inspections or reinspections of new applications were made.

Of the applications for licenses 165 were refused on first inspection; 140 were canceled. Cases of the application of the tenement tag numbered 78, in 46 of which cases the goods so tagged were seized and removed from the place where found. I authorize the inspectors to use the tag freely to secure prompt compliance with orders, as I find from experience that such treatment is more effective in bringing about immediate results than if we resorted to the issuance of a warrant of arrest of the offender, in addition to a very large saving of time of the inspector who by this means is kept in the field instead of in court.

There were 1,663 unrecorded tenement houses visited as being suspected of having persons employed in them of which only 204 were found to contain no workers. The total of all inspections of licensed houses, of houses for which new applications were filed, and houses suspected of violations of § 100 is shown to be 16,423. These figures show pretty clearly the constant activity of inspectors on this work. Complaints against this class of work have been few. This is especially true of those complaints having a valid basis under the law.

I instructed the inspectors to carefully separate in their reports to me the ready made from the custom made clothing. This is, I believe, the first accurate information of this kind ever collected. I am much pleased with it. It is as complete and as accurate as is possible to obtain as the data were all collected from personal contact with and interrogation of the people found employed. In considering this feature, the terms "ready made" and "custom made" should be understood to apply entirely to clothing for adult or child, male and female. Custom work is composed of work from the hands of the journeyman tailor, which is made by hand for the individual customer from measure. The "ready made" is that work made up for the public trade, irrespective of the quality of the goods or the class of the trade to be served. The number of home workers comprising both classes of workers run pretty evenly as to volume, 7,243 "custom" hands and 7,716 "ready made" hands being found.

In location there is a great difference, as we find the custom workers scattered over every part of the city, while the ready made clothing workers are found in greatest volume in the sections wherein are located the shops of the ready made clothing manufacturers or of their contractors. Again, the majority of the custom workers are males, while those on ready made goods are females, and of course, there is a very large difference in the earnings of both classes as one class does only that part of the garment that cannot be done in the shop and requires no particular skill, while the other class, the custom workers, must make and shape the garment after it is cut, which requires skill and knowledge on the part of the worker obtained only after long service as an apprentice, etc., at this trade.

Of workers on articles other than clothing, there were 1,902 feather makers, 1,170 artificial flower workers, 1,537 engaged on various other articles specified in § 100.

The nationality or race of the worker is another very interesting feature. The inspectors reported 22 different races employed in the home, but the great bulk of such workers was divided between the Italian and Jewish races, the former having 10,081 while the latter had 6,668. The numbers reported for other nationalities or races were as follows:

Nationality or race.	Number of workers.	Nationality or race.	Number of workers.
Italian.....	10,081	English.....	34
Jewish.....	6,668	Negro.....	33
German.....	1,278	Finnish.....	17
American.....	781	Russian.....	17
Bohemian.....	174	Austrian.....	16
Greek.....	99	Scotch.....	14
Irish.....	93	Chinese.....	3
Hungarian.....	92	Slavonian.....	3
French.....	88	Spanish.....	3
Swedish.....	80	Cuban.....	2
Polish.....	51	Armenian.....	1

The number of recorded outstanding licenses on October 1, 1911, was 13,213 against 12,841 for 1910. Comparison with other years will show that the percentage of home workers does not fluctuate very materially. My experience teaches that necessity is the great impetus in this line or class of work. Few persons are met with among the home workers, who engage in such employment from purely sordid motives, or for the sake of earning mere pin money. The necessity for honest and decent self support, or to aid in the support of dependents, is, we find, the chief reason for the greatest amount of so-called home employment. I am satisfied also that this report, full and complete as it is, does not cover all persons who do work in their own homes, for I believe that there are many persons in this city thus employed who take great pains to hide that fact, not alone from the eyes of the law, but from the eyes of the whole world so far as possible.

This work throws us into constant contact with that side of life where the struggle for existence is greatest, and misery and want and destitution cannot be hidden, and by those who strive to get a livelihood by honest efforts. Therefore, while the mandate of the law is harshness itself, we

try to temper its enforcement with as much consideration, patience and common sense and a spirit of human sympathy as is possible to extend while performing our duty under the law.

The general conditions met with show improvement, in that obedience with the requirements of the statute is more easily obtained than formerly, but we cannot check or stop the moving about of the people who are engaged in this line of work. The bulk of new applications is caused largely by removals of workers who perhaps seek a better paying location in which to prosecute their labor, or perhaps more often seeking cheaper rent.

I am pleased with the new arrangement which gives to this division a permanent set of inspectors and shall strive with them to make the work for the present year more thorough and efficient if such is at all possible.

PROSECUTIONS.

To effectively enforce the provisions of the law applying to factories and to maintain a proper respect for those administering them, makes it necessary in many instances to have recourse to the courts. No year's work proves an exception to this rule, as the lesson sought to be impressed by resort to punitive action appears to be soon forgotten. This holds good especially in regard to the employment of children. In spite of all admonition and the publicity given to this subject, a comparison of the records for the past six years, in which period more drastic efforts were resorted to than at any other previous time in the history of the bureau, shows violations of this character continue to form the greater part of the causes for prosecution.

The table setting forth a summary of prosecutions, and forming part of this report, is divided into two parts, the first giving cases pending on October first, 1910, and the other the cases instituted between that date and September 30, 1911. Out of 84 cases in the first group, 80 were disposed of, 2 are awaiting trial, and 2 the magistrate's decision. These last two mentioned cases have been held in the balance since 1909.

During the period covered by this report, 413 cases were instituted, 285 for the illegal employment of children or nearly 70 per cent of all the cases brought. For failure to observe the laws of sanitation and safety 99 cases were instituted; there were 17 for employing minors and women under 21 illegal hours, 2 for permitting work in unlicensed tenements, 5 for failure to improve unsanitary bakeshop conditions, 3 for failure of corporations to

pay their employees weekly, 1 for failure to report accidents and 1 for interfering with the inspector while in the discharge of his duty.

Of all those which came to trial there were 56 dismissals or acquittals, 6 withdrawals and in 188 cases sentences were suspended. In 129 cases fines were imposed aggregating in amount the sum of \$3,050.

In conclusion, I desire to express my appreciation to you and the entire force of the bureau of factory inspection, my thanks and appreciation for their earnest co-operation and assistance in carrying out the laws of this Department.

Respectfully submitted,

(Signed) JOHN S. WHALEN,
Chief Factory Inspector.

(B) REPORT OF THE MEDICAL INSPECTOR OF FACTORIES.

HON. JOHN WILLIAMS,

Commissioner of Labor, Albany, N. Y.

SIR: I hereby submit my report as medical inspector of factories for the year ended September 30, 1911.

During the year my activities have been confined principally to New York City, and were devoted to routine work in relation to ventilation, inquiries regarding sanitation, the possibility of poisoning or disease resulting from various processes of manufacture, and special investigations.

The special investigations completed were those relating to atmospheric conditions in the factories devoted to the manufacture of cloaks, suits and skirts in New York City, and the danger of mercury poisoning in the manufacture of felt hats. Reports of these are appended hereto.

Through the courtesy of the Board of Directors of St. Bartholomew's Clinic, the Department was continued in the privileges of the laboratory for intensive study and research work in connection with the various investigations undertaken.

The Department was represented at the Conference on Industrial Diseases held at St. Louis December 29-30, 1910.

That the activities of the Department relating to intensive work into atmospheric conditions of workrooms are now fully recognized, was evidenced through a request from the Commissioner of Health, and the Committee on Ventilation of the City of Chicago, for an investigation into, and a report upon, the practicability of ventilating basements and cellars of mercantile establishments and workrooms. A report of investigations made in response to this request is appended hereto.

Factory inspection relates to inspections and investigations of conditions affecting the health, safety, and welfare of the workers, a large amount of this work being properly classified as industrial hygiene. Medical inspection, therefore, is intimately concerned with (1) obtaining of data regarding the sanitary conditions of

factories or work rooms, (2) investigating and studying the various processes of manufacture with a view toward determining the presence of injurious or dangerous substances, especially, irritating or poisonous dust, fumes, gases or vapors, (3) conducting physical examinations of the workers for the purpose of preventing the spread of infectious or contagious diseases, (4) the physical examination of minors and women to determine those physically unfit to continue work, and more especially the examination of all workers engaged in industries known to be dangerous to health, for the purpose of preventing poisoning or disease, and (5) the recommending of such means or devices as may prevent injury, poisoning, or disease in the various industries.

At present there is no legislative authority which permits the Department to carry on any investigations as to the actual physical conditions of the workers, which is essential to the completion of an investigation of any industry. Investigations and inquiries have been limited therefore to intensive studies of the processes of manufacture, the conditions under which the workers are obliged to continue their labors, and the dangerous elements present to which the workers are exposed.

VENTILATION.

Ventilation, i. e. factory or industrial ventilation may be divided into —

General — as applied to all work rooms, irrespective of the nature of the work being carried on, and

Special — as applied to the removal by mechanical means of dust, fumes, gases or vapors generated during the process of manufacture, or resulting from the handling or storage of materials used in the industry.

General ventilation may be secured either by natural or mechanical means, but just when the natural means cease to be proper and sufficient, and mechanical means become necessary can be determined only through comparisons with scientific standards which must be maintained. In the case of natural means, the standard must obviously be one of permissible amount of vitiation, determined preferably by a certain definite indicator, such as the amount of carbon dioxide present.

Special ventilation may be secured only through mechanical means, for it is self-evident that the removal of dust, fumes, gases or vapors, must be accomplished through pipes properly connected with blowers or exhaust fans of large capacity. Where it becomes necessary to dissipate heat or humidity, the air must be constantly and uniformly changed.

Section 86 of the Labor Law relates to general ventilation, but there is an absence of specific standards as to purity or volume of the air required. Again, that portion of the section dealing with steam, gases, vapors, dust or other impurities generated in the course of the manufacturing processes carried on, relates to special ventilation, but fails to state specifically as to how the room shall be ventilated to render them as harmless as practicable.

A portion of section 81 applies to special ventilation, in that it specifically provides for proper hoods and pipes and that such pipes shall be connected to an exhaust fan of sufficient capacity and power to remove all matter thrown off from grinding, polishing, or buffing wheels, as well as dust and impurities from machinery creating the same. Were these specific requirements made applicable to that portion of section 86 relating to steam, gases, etc., it would, in my opinion, tend to solve one of the ventilating problems, as well as to render safe, many industries which are now a menace to the health of the workers, and in many of which women and children are employed. A large number of these industries are to be found in tenant factories and converted dwellings situated in congested districts.

I have found that there is an inclination on the part of most factory proprietors to secure good atmospheric conditions in the work rooms, but as a rule they desire to be shown specifically what is required by the law in order to comply with its provisions. In the case of dust creating machinery this is easily accomplished, but, in many instances, large quantities of dust are present in the atmosphere not due to machinery, and it becomes difficult to secure proper compliance with the law; this is also true in regard to fumes, gases, vapors, excessive heat and humidity.

The investigation undertaken in the cloak and suit industry is a definite illustration of the capabilities of natural and mechanical means for general ventilation in factories.

It must be conceded that, in large lofts with plentiful window area, and where the workers are spread out, good atmospheric conditions may be maintained through natural means, but this is true only in industries where no dust, fumes, gases or vapors are an accompaniment of the work carried on.

Some work was done for the bureau of mercantile inspection in relation to ventilation. The report of investigations into the ventilating conditions of a large mercantile establishment appended hereto shows what results may be accomplished by the installation of a proper system.

LIGHT.

The proper lighting of factories is an important question, for it concerns not only the health of the workers, but also the prevention of accidents.

Labor laws are intended to protect the health of the workers by requiring work rooms to be properly supplied with the natural conditions for labor, especially as to air and light. Notwithstanding this fact, there is a dearth of legislation relating to the subject of proper lighting and it has not received attention proportionate to its importance.

In all factories visited I have found it the desire of the workers to get just as near the source of natural light as possible, with the result that in many industries there is a certain amount of crowding about the windows, which increases as the window area becomes limited; that this has a direct effect upon air vitiation is conclusively shown in the Departmental investigation of atmospheric conditions in various industries and more especially that of the garment workers. This spells the need of legislation requiring sufficient window area, both as to floor space, and to the number of workers.

The use of certain kinds of window glass, and especially that of ribbed or prismatic glass, has the advantage over ordinary window panes in that the natural light is diffused over remote portions of the work room which would otherwise be dark, but it also has the disadvantage of causing a glaring and intolerable light to fall upon the workers' eyes on very sunny days. This I have found to be so from inquiries made of the workers in factories where such glass

is used, and have confirmed the truth of these statements from personal investigations as to the effects.

Connecticut possesses a law which provides that colored and corrugated glass may be removed if injurious to the eyes of the workers. I would recommend that such authority be given to the Department.

I would again refer to the question of the obstruction of natural lighting of work rooms through uncleanness of window panes, arrangement of stock, partitions and machinery and recommend remedial legislation granting the Department authority to regulate such conditions.

In my previous reports, the question of artificial lighting in its relation to air vitiation has been fully discussed. Its effects upon the eyes of the workers, if too dim, or too glaring, are to cause eye strain, nervous disorders, dimness of vision and the loss of eyesight, which latter is the greatest calamity that can befall anyone. It has been impossible to undertake an intensive investigation into the subject, but as a result of general injuries among the workers, I find there are a number who suffer from the effects of faulty lighting. I have observed many workers employed with unshaded gas and electric light directly on a level with the eyes, and from my own experience with such means of lighting, I am fully convinced of the harmfulness of such illumination.

When artificial illumination becomes necessary, there should be a fixed minimum standard of light to be maintained, as well as a proper means of protection from too brilliant illumination.

In Holland the law requires a minimum intensity of ten bougie meters (one foot candle) to be maintained, and, in some special industries, such as sewing, knitting, embroidery, jewelry, engraving, printing, etc., an intensity of fifteen bougie meters (one and one half foot candles) is required.

In the opinion of experts, this is a fairly scientific and practicable standard. I would recommend the adoption of such a standard. In my opinion, the Department should also be given authority to require that workers be protected against excessive radiation from the illumination in use.

DUST, FUMES, GASES, ETC.

The list of principal industrial poisons, as tabulated by a committee of the International Association for Labor Legislation, contains thirty, and shows that the mode of entrance of such poisons into the body is as follows:

In the form of dust.....	7
In the form of a gas.....	12
In the form of a vapor.....	11

The industries wherein the workers are exposed to such poisons are numerous.

As a rule, most dusts, gases, fumes and vapors are either so unpleasant or irritating in their effects that the necessity for their removal is quite evident. In many industries, however, gases and vapors of a character dangerous to the health of the worker are present and yet imperceptible to the ordinary senses.

The question of dust in the industries has received such close attention during the past few years that its injurious effects have been fully demonstrated. The activities of the Department have been devoted to intensive work regarding this important subject and in the previous reports the question of dust has been discussed at length.

Through Departmental investigation, it has been demonstrated that in certain industries not classified as dusty, the presence of dust in some quantities is one of the elements of danger.

An analysis of samples of air secured in the shops where skirts are made showed as high as 70 grams of dust per million litres of air, this being as large a quantity as was found in some of the pearl button factories. The reason for its not being very apparent is due to the fact that it is mostly organic, consisting of fibres of cloth, emanations from the human body and, probably, particles of food. The tests for oxidizable organic matter showed over 2 grams per million litres. The danger from the presence of large amounts of organic dust is due, not only to the irritating properties of some of the cotton and wool fibres, but because it is fertile ground for the growth of disease germs.

In some industries the danger is not alone from the irritating organic dust but from the addition to it of irritating inorganic

dust. This is shown by the analysis of samples secured from the finishing room of a felt hat factory. In one gram (15 grains) of dust, there was found .01021 grams of silica, a fine sharp substance which is the principal ingredient of glass. An analysis of a sample of dust secured in a room where paris green was boxed showed .303 grams per cubic meter, and further analysis showed that of this, .093 grams was arsenic. This dust is not only poisonous, but very irritating, and, as a result of spending several days at the plant, the mucous membrane of my nose, as well as that of Inspector Vogt, was inflamed for some days after our visit.

Samples of air secured in a brass foundry were analyzed and showed 75.2 grams per million litres of air, and of this 55.4 grams were silica, which undoubtedly came from the fine sand used for the flasks or moulds in which the metal is cast.

This is conclusive proof of the necessity for granting the Department authority to formulate regulations applicable to special dusty conditions in the industries.

In order to satisfactorily safeguard the health of the workers and protect them effectively from dangers of gas, fumes and vapors, specific regulations applicable to the various industries wherein such fumes, gases or vapors are generated, are required. The question as to whether such conditions are the result of processes of manufacture or otherwise, and as to whether they may be dealt with effectively by appliances attached to machines, by general ventilation through the use of artificial means, by appliances to be worn by workers, or by a combination of these means, must also be given careful thought.

There are many industries other than chemical works in which gases, fumes and vapors may be present, not however, due to processes of manufacture. These impurities may be in themselves harmless, but in combination with other gases or with dust they may become dangerous; they may be irritating in character, or under certain conditions of temperature and humidity they may lower the vitality, and predispose to disease; or they may be poisonous.

As a result of the investigation in the cloak and suit industry, the presence of carbon monoxide was conclusively shown to be present in the air breathed by the pressers who used gas irons.

This is a most deadly gas and not perceptible to the senses, but under the present law we have no specific method of dealing with this dangerous element.

Experience has demonstrated the need for well defined standards embodied in the law, providing for the effective removal of impurities.

WOMEN AND CHILDREN.

The employment of women and children in the industries is a question of industrial hygiene as well as of economics. It is an established fact that they are very susceptible to poisoning and disease, and upon the conservation of their health depends the health and usefulness of the future generation. It, therefore, becomes a matter for medical inspection.

To pursue intensive investigations into the subject would require time and a staff of specially trained investigators. As part of my activities some attention has been given to the conditions found in factories relating to the safety, health, and welfare of women and children.

Section 88 of the law provides that "Where females are employed, dressing or emergency rooms shall be provided for their use; each such room shall have at least one window opening to the outer air and shall be enclosed by means of solid partitions or walls."

As a result of my visits I find that in the factories, and large tenant factories, this section of the law is generally complied with. In many of the large factories a dressing room is not only provided, but a lunch room as well, and in many instances there is a small surgical room with a nurse in constant attendance; this is, of course, a branch of welfare work worthy of consideration. On the other hand, in many of the other smaller tenant factories visited, I find that, owing to the smallness of floor area, and lack of windows leading to outside air, it is almost an impossibility to secure proper compliance with the law requiring dressing rooms.

Such rooms as are provided seem farcical, and are never used except for accumulating rubbish which aids in making the shop unsanitary. In my opinion, a remedy for this would be in requiring the owners of such tenant factories wherein it is impossible to

provide suitable emergency or dressing rooms in the individual holdings, to set aside a portion of one floor for a common dressing or emergency room, provided with sanitary conveniences and lockers.

Section 17 of the law provides that every person employing females in a factory shall provide and maintain suitable seats for the use of such female employees, and permit the use thereof by such employees to such an extent as may be reasonable for the preservation of their health.

As a result of my observations it would seem that there is a wide difference of opinion as to what are suitable seats. In many industries the workers are seated during the entire period, using chairs, stools or benches. Many industries require constant standing on the part of workers operating machinery, and rest is secured by using a small shelf attached to the machine. Very few of the seats that I have seen are in my opinion really suitable or restful; there should be a standard, and I would respectfully recommend that a seat to be accepted as suitable should be such, that when the employee sits the soles and heels rest comfortably on the floor. Also, that such seats have a back set at an angle of not less than 100 degrees.

In many industries where women are employed near machinery, dangerous accidents have occurred through the long hair catching in gearing, pulleys, or about shafting. I would recommend that authority be given to the Department to require the proprietors to furnish caps or head coverings for females engaged at work near machinery.

It must be conceded that a minimum age limit for working children is of great value, but the mere question of chronological age is no real determination of the child's physical fitness to engage in certain occupations, for I have found eighteen year old boys, who physically looked only fifteen, engaged at dusty occupations fit only for strong adults, and I have also seen children between fourteen and fifteen carrying heavy loads and engaged at work tending to decrease the vital resistance and make a poor physique, but under the law they were legally employed.

In the majority of foreign countries, the child before beginning work must possess a certificate of physical fitness obtained only

after a thorough medical examination, and, after having begun work, re-examination as to fitness to continue work may be required by the visiting inspector. In my opinion such authority should be granted to the Labor Department.

A maximum standard of labor which may be performed by minors is essential for the encouragement of their proper physical growth. This question has been made the subject of legislation in France, and I quote some of the provisions relating thereto. Children under eighteen years of age are not allowed to operate foot-power machines, nor to turn horizontal wheels. No male employee under eighteen years of age or any female employee in an industrial establishment is permitted either inside or outside of the work place to carry loads in excess of the following weights:

	Pounds.
Boys under 14 years of age.....	22.0
Boys 14 and 15 years of age.....	33.1
Boys 16 to 18 years of age.....	44.1
Girls under 14 years of age.....	11.0
Girls 14 and 15 years of age.....	17.6
Girls 16 and 17 years of age.....	22.0
Girls 18 years of age and over.....	55.1

In a large number of industries, considered dangerous because of the risk of poisoning, or because of the production of deleterious gases and dust, children under 18 and all females are prohibited from even entering the places in which the processes are carried on.

In a large number of industries it is also prescribed that children under 18 years, minor girls, and women shall not be employed in the workshops where dust is freely given off, where acids are used or their fumes are present, where the fumes of carbon dioxide or benzine are given off, and where poisonous materials are used.

In my opinion, the Department should be granted authority to formulate prohibitive regulations along these lines.

INDUSTRIAL DISEASES.

Labor laws are intended for the protection of the health of all workers, and while there are many diseases traceable directly to

the occupations in which the workers may be engaged, the scope of medical inspection of factories is more to determine those pathological conditions due to the industries, meaning thereby, manufacturing processes or work in factories; there remains then, a number of occupations within the provisions of the law, to which medical inspection might be extended.

The study of the causes of diseases from which the workers suffer is one of the first principles of industrial hygiene, as well as one of the most intricate problems. The classification, or as we might term it, medical nomenclature of such diseases is no simple matter, owing to the fact that there are so many causes to be considered.

In order to apply proper safeguards, statistical facts must be secured tending to prove that the industry is the dominant ætiological factor in causing disease. A mere compilation based upon general reports, or conclusions drawn from the hasty observations or casual inspections of the workers, is of little value. In order to secure data that may be of material assistance in formulating regulations, it becomes necessary to make an intensive study of the industry, the worker, and the housing conditions.

In undertaking an intensive study of the industry for the purpose of defining its relation to disease, the Department has met with signal success. The result of the investigations already completed shows definitely just what dangers are present from processes of manufacture, materials used, or conditions under which the industry is carried on.

The study of the workers presents a difficult problem, for it must comprise, not only a thorough physical examination of each one, but also a study of personal hygiene. To attribute to the industries various diseases, based upon superficial examinations of the workers, or upon mortality statistics is erroneous. For accurate data it becomes necessary to look to the foreign countries; we are still lacking in those medical statistics which would go a great way toward demonstrating just where the fault lies.

The hospital and dispensary records fail to show definitely the relation of the patient's occupation to the disease, and though I

was informed that there have been tabulations made relating to the illness of workers in certain industries, such statistics have been collected for personal use and were not available.

The present mortality statistics are of small value, for there are many deaths due primarily to the occupations of the workers, but which have not been recorded as such. The following list furnished by Dr. Guilfoy, Registrar of the New York City Health Department, shows the number of deaths from occupational diseases reported in Greater New York during the year 1910:

Lead poisoning: stereotypers.....	1
painters.....	4
Total.....	5
Mercury poisoning. pressmaker, rubber goods.....	1
Total deaths.....	6

In proportion to the population, and the number of known dangerous industries, these statistics would indicate a very low mortality from occupational diseases or poisonings.

From January to October, 1911, there were reported to the New York State Health Department:

Deaths from chronic lead poisoning.....	16
Deaths from other chronic occupational poisonings.....	10

Of the many diseases attributed to the industries, tuberculosis (pulmonary) has received the most attention from statisticians. According to the authorities, the death rate from this disease is very high among workers in tobacco, textiles, cutlery and pearl buttons.

The following table which I have compiled from reports of the State Health Department, January to October, 1911, shows the number of deaths from pulmonary tuberculosis which occurred in New York City, and a few cities and towns in other parts of the state. The places selected were those wherein one industry predominated, and the factories had been visited by me. It is interesting to note that the industries tabulated are ones considered as ranking high in predisposing to pulmonary tuberculosis.

City or Town.	Industries.	Population.	Deaths.
New York City.....	Miscellaneous.....	4,956,865	5,964
Yonkers.....	Textiles, felt hats.....	84,361	76
Utica.....	Textiles.....	77,088	65
Amsterdam.....	Pearl buttons, textiles.....	33,116	20
Kingston.....	Cigars.....	26,031	42
Oswego.....	Textilks, matches.....	4,540	6
Walden.....	Cutlery.....	4,069	2
Fishkill Landing.....	Textiles.....	3,894	5
Fishkill.....	Textiles.....	3,149	0

The addition of section 58 to the law, which requires the reporting of certain industrial poisonings and diseases, will undoubtedly aid in determining more fully industries dangerous to the health of the workers.

In my opinion, the Department should be given authority to require that all industrial poisonings be reported. During my visits to the factories, I have, in different industries, observed workers, who, in my opinion, were undoubtedly suffering from the effects of aniline, zinc, benzine, carbon monoxide, and alcohol, both amylic and methylic. Inquiries made of the workers seemed to confirm my belief.

Accompanied by Inspector Vogt, some time was spent in a brass foundry for the purpose of securing samples of air during the periods of casting the metal; twenty-four hours later Mr. Vogt became quite ill, and exhibited all the symptoms of zinc poisoning, the illness lasting for several days. Analysis of the samples of air secured showed the presence of zinc and copper, which was definite proof of the danger from zinc poisoning, since the analyses were confirmed by the actual effects upon one exposed to the air. Inquiries made of the workmen in this and other brass foundries confirmed the fact, for all suffered from the symptoms known as brass founders' ague, which is zinc poisoning.

Referring to my report for 1909, the dangerous nature of materials used in the manufacture of incandescent mantles was pointed out. In the report of the Chief Factory Inspector of Great Britain for the year 1910 appears the following report of Dr. Collis, one of the medical inspectors:

Manufacture of incandescent mantles. Four factories where incandescent mantles are manufactured have been visited to ascertain whether under the present conditions of the work any injury is caused to the workers (1) by vapor arising from the baths in which the mantles are dipped; (2) excess of carbon dioxide generated in the process of seasoning or burning. The

dipping bath contains a mixture of methylated ether (industrial spirit), 60 per cent, and methylated spirit, 30 per cent, in which is dissolved collodion and camphor. The vapor arising from this mixture if breathed to any extent by the workers causes headache, sickness, anorexia, sleepiness, and lassitude, symptoms which are experienced to a greater extent on first commencing employment. At one factory where the workers had to enter the hot stoves, heated to about 115 degrees F. to carry in the mantles for drying, and to remove the dried mantles, all seven workers complained of some of the symptoms described. * * * Suitable hoods and exhaust ducts, minimising the amount of vapor which escapes, can be fixed over the dipping baths.

This is confirmation of the dangerous nature of this industry, and in the places visited by me the employees were mostly minor females and children.

In the manufacture of felt hats, the principal danger has been considered to be from mercurial poisoning. As a result of the investigation undertaken by the Department into this industry, it has been found that there is also an added danger from carbon monoxide poisoning, and in the finishing process, the workers are liable to pulmonary diseases resulting from irritation of the mucous membranes through the inhalation of dust containing large quantities of silica. This dust is created in the pouncing and finishing of the hats with sand paper. From merely superficial physical examinations of a number of workers in this industry, I found many of them suffering from bronchitis, although from general appearances they were of fine physique. Many of them are reported as suffering from tuberculosis, but this I was unable to confirm.

Dr. Waters of the New York City Health Department Tuberculosis Clinics reports that during 1910 the percentage of tuberculosis in various occupations represented at the clinic was as follows: laborers, 3.52; factory, 2.86; operators, 5.47; pressers, 2.5; cutters, 1.82; painters, 1.48; carpenters, 1.22; furriers, 1.22. All the garment workers grouped together furnish over thirteen per cent., and yet the trade has never been classified as dangerous.

It is quite evident that the question of industrial diseases demands an intensive study, and I would respectfully recommend that authority be granted the Department to do so.

Respectfully submitted,

(Signed) C. T. GRAHAM ROGERS,
Medical Inspector of Factories.

REPORTS OF SPECIAL INVESTIGATIONS.

I. VENTILATION OF A DEPARTMENT STORE.

I would report that as per permission granted to comply with request of Hon. W. A. Evans, M. D., Commissioner of Health, of Chicago, Ill., I visited the mercantile establishment of _____ in New York City, on November 10th, 11th and 12th, for the purpose of making determinations of temperature, humidity, carbon dioxide and dust. Deputy Factory Inspector Vogt accompanied me during the visit and aided in the laboratory determinations. In order to finish in time to comply with the Commissioner's request, it became necessary to do the laboratory work on the nights of the 10th and 11th.

That portion of the basement devoted to merchandise is really a basement surrounded by a balcony, but there is a very large portion of it under this so-called balcony basement. From the basement there is an exit to the concourse of the McAdoo tunnels. The sub-basement is devoted to shipping and packing, and is divided by low partitions and racks; there are quite a number of young women employed here.

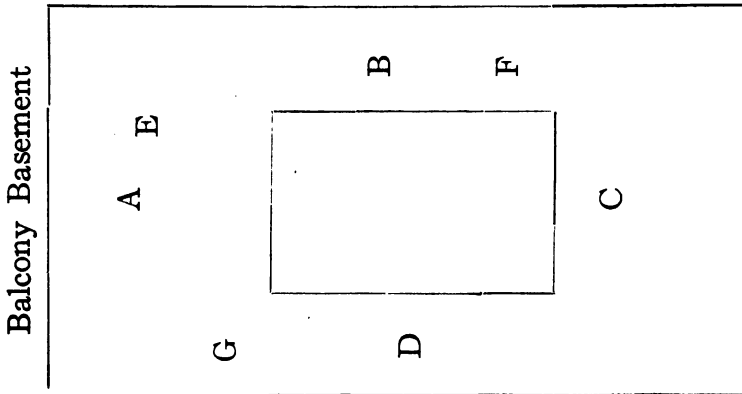
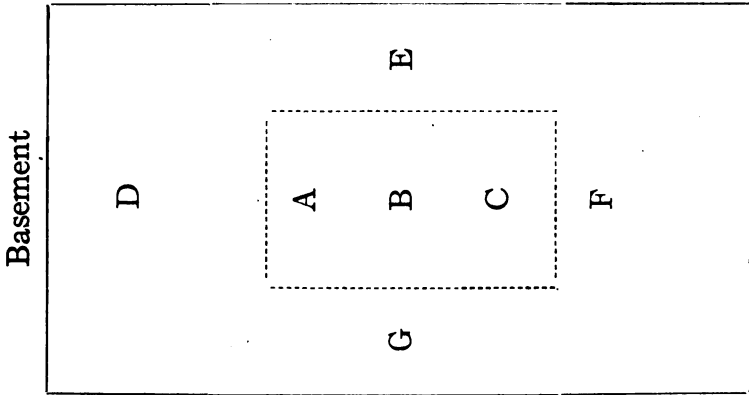
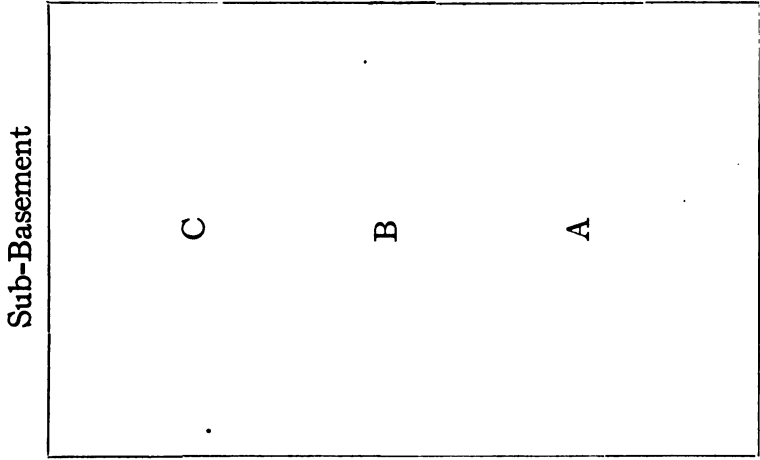
There is a combination system of heating and ventilation of the plenum and exhaust type. There are nine intake fans, each being about seven feet in diameter, the air being taken directly from the sidewalk by means of three intakes. The air is washed, screened and then driven through the building. In the basement and basement balcony every other supporting column is an air supply, the source of supply being near the ceiling, while the exhausts are along the walls near the floor. In the water closets at the back of each hopper there is also an exhaust. A determination showed the temperature of the air being supplied to be 64 degrees F., humidity 50. Outdoor determinations showed temperature 45 degrees F., humidity 40. In the sub-basement, air supply is from ducts along the ceiling, and the exhausts are from gratings set in the floor and along the sides of the walls. There are ten fans for exhausting, which are about the same size as the supply fans.

Determinations were made in basement balcony, basement and sub-basement for temperature, humidity and carbon dioxide. Samples of air were collected, and laboratory determinations made for ammonia, oxidizable organic matter, and total solids (dust). Bacteriological determinations will also be made. The large amount of total solids found is probably due to (1) air intakes being at street level; (2) newness of wooden floors, not yet thoroughly oil soaked; (3) drying out of new plaster walls.

Below are the results of our findings. Temperature and humidity readings were taken at floor, breathing, and high levels, and are marked respectively a, b, c. The diagram following the table shows where tests were made by the letters A, B, C, etc. Determinations are per million litres of air. The carbon dioxide is recorded as parts in 10,000 volumes. The ammonia in every test was less than .5 part per million. In all cases, the air was carefully aspirated and measured; at no time were less than 500 litres aspirated.

Location of test.	Temperature. (F.)	Humidity.	Oxidizable organic matter (grams.)	Solids (grams.)	CO in 10,000 volumes	
<i>Nov. 10. Partly cloudy. Temperature 65°. Humidity 67</i>						
Basement:	A.....	a 71.....	73	.46	60.0	7
		b 69.....	73			
		c 73.....	73			
B.....	a 69.....	73	.52	63.0	6	
	b 69.....	73				
	c 70.....	73				
Basement balcony:	A.....	a 72.....	77	.62	59.4	7
		b 71.....	76			
		c 74.....	74			
<i>Nov. 11. Partly cloudy. Temperature 45°. Humidity 67.</i>						
Basement:	C.....	a 67.....	56	.79	80.3	6
		b 67.....	56			
		c 67.....	56			
D.....	a 66.....	49	.98	86.0	7	
	b 67.....	49				
	c 69.....	48				
E.....	a 68.....	56	.96	89.0	7	
	b 68.....	56				
	c 69.....	56				
F.....	a 65.....	49	.78	91.0	6	
	b 65.....	48				
	c 65.....	48				
Basement balcony:	B.....	a 69.....	50	.86	78.0	7
		b 69.....	46			
		c 69.....	46			
C.....	a 69.....	47	.76	82.0	7	
	b 69.....	46				
	c 69.....	46				
D.....	a 69.....	51	.86	20.0	6	
	b 68.....	50				
	c 68.....	50				
E.....	a 71.....	53	1.12	72.0	8	
	b 70.....	50				
	c 71.....	49				
F.....	a 69.....	48	.86	78.92	7	
	b 69.....	46				
	c 69.....	46				
Sub-basement:	A.....	a 71.....	52	.87	27.0	6
		b 73.....	53			
		c 73.....	53			
B.....	a 70.....	51	.87	59.0	6	
	b 73.....	53				
	c 73.....	53				

Location of test.	Temperature. (F.)	Humid- ity.	Oxidiz- able organic matter (grams)	Solids (grams).	CO ₂ in 10,000 volumes.
<i>Nov. 12. Partly cloudy. Temperature 46°. Humidity 52.</i>					
Sub-basement: C.....	a 70.....	52	.82	21.0	6
	b 72.....	52			
	c 72.....	52			
Basement: G.....	a 70.....	56	.90	35.0	7
	b 70.....	56			
	c 70.....	56			
Basement balcony: G.....	a 72.....	57	.40	63.0	6
	b 72.....	57			
	c 73.....	58			



Front of Building

II. CLOAK AND SUIT INDUSTRY IN NEW YORK CITY.

TECHNICAL REPORT.

At the request of the Joint Board of Sanitary Control of the Cloak, Suit and Skirt Industry of New York City, an investigation into the atmospheric conditions of the factories devoted to this industry was undertaken.

That the work might be facilitated, an assistant was provided by the Joint Board. In order to make the investigation an intensive one, I deemed it advisable to select certain types of buildings in which cloak and suit factories were to be found, and made a thorough study of each shop in the various types of buildings. Thus observations were made of the actual working conditions covering the entire day. The types of buildings selected were classified as follows:

Loft Buildings, Recent Type. This included the large fireproof loft buildings of recent construction, containing all the up-to-date installations for lighting, heating and plumbing.

Modern Loft Buildings. This included the loft buildings erected some years ago (ten to fifteen), and not possessing the most modern improvements.

Old Type Loft Buildings. This included the old style loft factory building, as a rule not over six stories in height, containing no modern conveniences, and having two or more shops on each floor.

Converted Tenements and Converted Dwelling. These included buildings formerly used for family habitations, and were as a rule, situated in the congested districts.

A number of buildings under each class were visited for comparison. Corner buildings as well as block buildings were included in each type.

In order to properly consider the question of atmospheric conditions in the factories, it becomes necessary to know what is the ideal outdoor atmospheric condition, as well as the composition of the street air in New York City, so that proper comparisons may be made.

Air is a mixture of gases. An analysis of air commonly accepted as normal is as follows:

Oxygen.....	21.04
Nitrogen.....	78.06
Argon.....	0.94
Carbon dioxide.....	0.03
Watery vapor.....	variable.
Ammonia.....	trace.
Organic matter.....	variable.
Helium, krypton, neon, xenon, hydrogen.....	traces.
Micro-organisms.....	.8 per litre of air.

This analysis is volumetric and represents parts per 100 volumes.

Analyses made in St. Bartholomew's Laboratory of samples of New York City street air were as follows:

Day clear and sunny, weather mild:	
Total solids (dust).....	30.00 grams per million litres.
Oxidizable organic matter.....	11.00 grams per million litres
Ammonia.....	1 part per million.
Carbon dioxide.....	4 parts per 10,000 volumes.

Day clear with strong wind blowing:

Total solids.....	114.00 grams per million litres.
Oxidizable organic matter.....	12.00 grams per million litres.
Ammonia.....	3 parts per million.
Carbon dioxide.....	4 parts per 10,000 volumes.
Bacteria.....	12 per litre.

Microscopic examination of the solid matter showed horse manure, quartz, sand and a dark substance probably asphalt or cinders.

Analysis of a sample of air secured at Centreport, L. I., at an elevation of one hundred feet above sea level, at early morn, showed 2 bacteria and 8 moulds per litre of air after four days' incubation at a temperature of 23 degrees centigrade; also:

Total solids (inorganic).....	7.00 grams per million litres.
Oxidizable organic matter.....	0.2 grams per million litres.
Carbon dioxide.....	3+ parts per 10,000 volumes.

The foregoing observations of local outdoor atmosphere afford the means for comparison with the conditions found in the factories tabulated.

An examination of the appended tables to these special reports shows some interesting data and does not support the usually accepted theory that a large loft with numerous windows means one that is well ventilated, or that old buildings in the congested district are unhealthful.

In tabulating, especial care was taken that the records should be of the usual working conditions, so that findings due to sudden changes resulting from the opening of a large number of windows at once, or suddenly starting up ventilating apparatus, and thereby causing sharp changes in the reading (usually low), were not recorded in the tables. In some instances, readings taken at noon, just after work was stopped, and a number of employees had left the loft, are recorded for comparison. Several readings were taken in the morning usually beginning about 9 A. M. and again in the afternoon, from about 1:30 to 5 P. M., and the maximum A. M. and P. M. readings recorded in the table; the upper reading being A. M., the lower one P. M., except when otherwise noted.

The samples for dust analyses were obtained by aspirating the air through special bottles containing sterile water and not confining the selection to any one portion of the room. In securing samples of air for determination of carbon monoxide, they were taken at the breathing level of the pressers.

In determining the presence of micro-organisms, two methods were used, that of exposing a gelatine plate known as a Petri dish, and also aspirating a known quantity of air through sterile water, and then transferring a definite quantity to a culture media, according to a method for determining bacteria in water, recommended by the American Public Health Association.

In the tables, the wet bulb thermometer readings have been recorded instead of relative humidity readings being calculated. By so doing, the actual amount of aqueous vapor present is more definitely shown and clearer comparisons may be made.

No record is made in the tables as to the number of windows open, for in the majority of places visited, they were opened or closed at the convenience of the workers, so that windows were open and closed intermittently during the securing of samples. This was also true of places where ventilat-

ing fans were installed, for the operations of these fans called forth loud protests from the workers near the windows used as intakes that they could not stand the draughts. Windows having ventilators were not exempt from being closed.

In considering the carbon dioxide, temperature and wet-bulbs, it will be noticed that they often vary in different parts of the room. This shows that there are not only numerous air currents and cross currents present, but certain areas in which the air is dead or stagnant.

When there is a high velocity of the outer air, there is consequently an area of high pressure at the portion of the building exposed, and the readings will be lower than at the opposite or low pressure area of the building.

The situation of the gas irons used by the pressers, also, has much to do with the readings. It is noticeable that in certain lofts where the irons are near the windows, the carbon dioxide readings are lower than in other parts of the room, which was caused by the changing of the air due to currents created by the heat of the irons. In many instances, the temperature is high, and carbon dioxide low. It will also be noticed that in some instances the carbon dioxide is higher where the irons are near the windows; this is probably due to this section being the low pressure area and in the path of the escaping air currents.

As a result of these tests, it is fully demonstrated that carbon dioxide is not an indicator for the amount of carbon monoxide present; for a glance at the tables shows that in many instances where the amount of carbon dioxide is low the amount of carbon monoxide is high.

It is noticeable that the area of the loft, and also the situation of the irons, have a marked bearing upon the carbon monoxide findings. In the modern loft buildings with large floor area, there is less carbon monoxide where a great many irons are in use, than in the old type loft buildings with small floor area, and it is quite high in the converted tenement and dwellings where only one or two irons are in use. Again, it will be noted that the amount is less where the irons are near or at an open window. This proves the need of proper air dilution to minimize the danger from this gas.

It will be noticed that irrespective of the type of the building or its situation, where a large number of workers are employed and natural means of ventilation are relied upon, the carbon dioxide findings are high. A reason for this lies in the fact that the workers are all situated in the portion of the shop near the windows, so that they may have good light to work by. The proper circulation of air through natural agencies is impeded, and rapidly vitiated by body emanations, and on days when there is a marked difference between outdoor and indoor temperature, conditions are made worse. Under conditions such as these, the actual amount of air space per person is unusually small, and there is a large dead area in the unoccupied portion of the loft. When artificial illumination become necessary, and gas is used, the conditions are rendered still worse, as the workers continue to labor in the same place.

In the old loft buildings, and converted dwellings and tenements, where the shops are small, often several on a floor, and but a few workers in each, the carbon dioxide is rather high; this is due to the obstruction of natural air currents. The windows are usually in the front or rear of the build-

ing, and a partition separates the shops. In the cellar shops, even where the floor area is large, and the workers are few, the carbon dioxide is high, due to inadequate means being present for facilitating air currents.

Where artificial means for ventilation has been installed, it will be noticed that the carbon dioxide readings are low, and this despite the fact that the systems were only run intermittently. It is true that to work such systems continually would compel the employees to cease their labors, owing to draughts and low temperature. This is especially noticeable on very cold days. But it must be conceded that even the intermittent working of such systems are of benefit in maintaining proper atmospheric conditions.

It has been proven that the amount of carbon dioxide increases the longer a room is occupied. The results recorded show this to be true, for with the exception of those shops operating ventilating systems, the P. M. carbon dioxide readings are, as a rule, higher than the A. M. readings, and this is especially noticeable in the case of the older buildings. One of the probable causes for this condition is the sudden increase of energy on the part of the workers to finish the day's output. This muscular action increases the amount of impurities thrown off from the body, and that the presence of these impurities is indicated by the amount of carbon dioxide present cannot be doubted. It has been demonstrated by physiologists that, the greater the muscular activity, the greater the amount of carbon dioxide given off from the body.

That the use of illuminating gas aids in increasing the amount of carbon dioxide as well as the temperature is clearly indicated. It will be noticed that where gas is used commercially for apparatus, or for illumination, the carbon dioxide readings are influenced; for in the modern large lofts, where a number of irons are in use, and the cubical contents of the room ample, the carbon dioxide readings are higher than in a small loft having few irons; this is due to the products of combustion, the irons consuming an amount of oxygen, and producing an amount of carbon dioxide equal to a great number of people.

Where steam heating is used it will be seen that the temperature is higher than where coal stoves are in use and that the wet-bulb readings are also high. Where coal stoves are depended upon, it will be seen that the temperature is about 60 degrees F. and less, and that the wet-bulb readings are also low; with each higher reading there is a corresponding increase of the carbon dioxide reading.

A careful study of the wet-bulb readings shows that they are generally not high and that the means used for heating, use of gas, and crowding of employees also has a direct influence upon such readings. Where there are a large number working, steam heating and large quantities of illuminating gas used, the wet-bulb is high. In the small shops while the readings are not very high, in proportion to the number of workers present the readings should be lower. That the amount of carbon dioxide varies with the humidity is shown in the tables, for where the wet-bulb reading rises the amount of carbon dioxide also increases; and in the lofts, where ventilating fans are used and a low wet-bulb reading obtained, the carbon dioxide findings were low.

One of the causes of unsanitary shops is the presence of food. In many shops the employees eat while at work, with the result that the food refuse becomes scattered about the floor and under the benches, there decaying and becoming fertile ground for bacterial growth, as well as vitiating the atmosphere. Such conditions are especially prevalent where the sale of food stuff is permitted in the factory, for, as a rule, the stalls and storage boxes used by the peddlers are not clean.

To ascertain the presence of such impurities, analyses were made for the amount of total solids, and presence of organic matter. A study of the tables shows that wherever a food peddler was present, the shop was dirty and the amount of organic matter was high. It is also noticeable that the amount of carbon dioxide was high, demonstrating its value as an indicator where organic matter is present. It would naturally be expected that such conditions would only be found in the old types of buildings found in the congested districts, but it is clearly shown, that even in the highest class of shops, if food peddling is permitted it is difficult to secure proper cleanliness.

In the old buildings in the congested district, an added danger is the presence of bedding in the shops. Here, there is not only fertile ground for bacterial growth, but also propagation of vermin, and in many instances the cause of disastrous fires. The tables show that where bedding was present organic matter was very high, and bacteria numerous.

Analyses show that the amount of dust in the factories is rather high and yet the industry is not classed as a dusty one. That the dust is not readily perceptible is probably due to its being organic and light, and to its being generated in the course of cutting and sewing the goods. The extreme fineness, as well as the irritating properties of the cotton and wool fibres which compose the greater part of this dust, make it a source of danger to the workers' health. The large number of garment workers, who are treated for pulmonary diseases in the clinics and hospitals, fully establishes this fact.

The results of the investigation clearly demonstrate that the atmospheric conditions found in the majority of the shops are not conducive to good health and should be remedied. That certain factors which cause unsanitary conditions in the shops can be eliminated, and that the air may be changed without discomfort to the workers has been established.

To secure these results requires the co-operation of employer and employee as the present factory laws insure sanitary conditions in the shops, if properly complied with.

In addition to these laws, I would suggest the formulation of regulations along the following lines:

During the months of October and April a minimum temperature of 61 degrees F. should be maintained in the factories.

The amount of carbon dioxide present should not exceed 12 parts per 10,000 volumes during the daytime, or 20 parts at night when gas or oil is used for illuminating purposes.

Where a number of gas irons are in use, mechanical means should be installed so that there may be a constant circulation of air maintained at the pressers' tables.

The presence of bedding in the shops should be prohibited.

The sale of food in shops, or eating at work tables during the hours of labor, should not be permitted. Where there is no lunch room, special tables should be provided at noon for the preparation of lunches, and all refuse should be removed immediately after finishing lunch.

Smoking in the shops should be prohibited.

GENERAL REPORT.

In addition to the technical report covering the investigation of atmospheric conditions of the cloak, suit and skirt industry of New York City, the following general report is submitted.

The industry is really a division of tailoring or garment working, and is carried on under practically the same conditions, many of the processes being identical. Many of the shops are situated in the lower portion of the city, and are found in all types of buildings devoted to commercial purposes. There has been a gradual removal of these shops from the converted dwellings and old type loft buildings to the more modern so-called fire-proof buildings. In many of the large establishments, all the processes are carried on in the same building, but in the small shops, which are found in the old buildings, certain portions of the work which have been contracted or sub-contracted for are carried on.

In the process of manufacturing, the work is mostly machine work, the finishing and lining being done by hand. The various processes through which the cloth passes from bolt to the finished product is as follows: cutting, sewing and pressing. In many of the factories the material is merely cut, and is sent to contractors to be sewed, pressed and finished. The cutting consists in having a number of layers of cloth on top of which is placed the pattern, and the cutting of the goods is accomplished either by means of shears, a large knife, or the more modern method of a circular knife operated by a small motor which the cutter guides by hand; this work is performed by those who are expert, the majority being males who command high wages. As the work is particular, good light, as well as large table space is necessary. The well lighted portions of the shop are devoted to cutting.

After the goods have been cut they are completed, either in the same shop, or they may be sent out to the contractors who keep small shops, or the work may be sent into the home.

The next process, sewing, requires the goods to pass through a number of hands, for the industry is one in which the work is specialized, each worker being employed in basting, hand sewing, machine sewing or pressing just one special portion of the garment. The basting, which is a preparatory sewing of the goods together, and requires little skill, is performed mainly by the beginners, the majority of whom are male and female minors. The goods are finished by the machine operators. In all the large shops and in the majority of the small ones, the machines are set on long tables which are situated in rows, the motive power being usually supplied by means of an electric motor or gasoline engine. There are numerous sub-divisions of the sewing whereby the linings, as well as the goods, are assembled into the perfect garment. During the assembling of the garment it is sent to the pressers. Here the work is done either with hand irons heated on coal

furnaces or on small gas stoves, which is the method pursued in the very old loft buildings on the East Side, and the hand gas iron or tailor's goose. There are many types of this iron, one which is equipped with the bunsen burner, the other, which in addition to the gas, is supplied with compressed air, so that the worker may regulate the flame. There is also a heavy gas iron which is operated both by hand and foot.

The industry has never been considered either a dusty one or a dangerous one, and in none of the classifications by authorities, even of recent date, can it be found among the so-called "dusty trades," and yet, the results of the Department investigation into this industry shows the presence of dust in the air as high in amount as that found in some of the pearl button factories investigated. It is evident that among the conditions in this industry which are considered dangerous to the health of the workers, dust plays an important part. Through the analyses of the atmospheric conditions in those establishments where illuminating gas is used for heating the irons, it has been demonstrated that the pressers are exposed to the danger of the deadly gas, carbon monoxide.

In considering the relation of the industry to the health of the workers, it may be well to start with the initial process, that is, the cutting of the goods. In this process, the dangers arise from the dust created in the cutting of the goods, and the operator, to follow the outline of the pattern accurately, must keep his face close to the work. It has been demonstrated that the inhalation of organic dust is a menace to health because of the irritating qualities of such dust, the cotton fibres being the most dangerous. This danger is minimized to a certain extent by the large amount of air space for each individual, not due to any thought on the part of the proprietors, but to the fact that it is necessary to have large table space to spread the goods on for examination and cutting. Notwithstanding this fact, a large number suffer from pulmonary tuberculosis, it being reported that 1.82 per cent of all the occupations treated at the New York City Health Department Clinic were cutters in the garment trade. The air analyses in cutting rooms show 16 to 18 parts carbon dioxide per 10,000 volumes, and 59 grams of total solids (dust) per million litres of air, proving conclusively the presence of a predisposing cause for pulmonary affections, and this condition was found in the most modern type of workroom.

In the process of sewing there are two types of machines used by the operators. In the large shops power is used, whereas in many of the small places foot machines are used, so that to make an intensive study of this branch of the industry in its relation to the health of the employees careful consideration is required of a large number of conditions which have a bearing upon the health of the workers. The danger is not from the dust alone, but also from the effects of nerve strain or fatigue due to the operation of the machines. This question has been studied rather carefully by Dr. Sydney I. Schwab of St. Louis, who has reported a large number of cases of neurasthenia among such workers. Another danger to which these operators are exposed is that of having to work with artificial illumination on a level with the eyes, especially that from incandescent electric bulbs. Reports show this has a deleterious effect, not only upon the eyes, but upon the general health.

Dr. Collis, one of the medical inspectors of the British Factory Inspection Service reports as follows:

The presence of nystagmic or oscillatory movements of the eyeball is well known to be caused among miners, but it is not recognized that similar though slighter movements of the eyeball occur when the vision is directed laterally in other workers whose employment calls for continuous use of the eye.

A case of pronounced nystagmus was brought to my attention, * * * * *

The inquiry was then pursued among the female workers employed at sewing machines; 516 were examined, and it was found that 145, or 28 per cent, showed these movements; the condition was present among 29.2 per cent of workers between 14 and 17 years of age, in 30 per cent of workers between 17 and 20 years of age, in 29.2 per cent of workers between 20 and 25 years of age, in 22.8 per cent of workers between 25 and 30 years of age, and in 23.4 per cent of workers age 30 and over, these figures point to the conditions being one of fatigue of the extra ocular muscles, a condition more likely to be found among young females than older women.

Among the operators, the percentage of tuberculosis is rather high, it being reported as 5.47 per cent of all the occupations treated in the New York City Health Department Clinic.

Analyses of the atmospheric conditions in such parts of the shops where the operators work, show the carbon dioxide to be as high as 18 parts in the modern loft buildings, and 25 parts in the cellar shops. This was where natural means for ventilation were relied upon. A probable cause of the high percentage of carbon dioxide is due to the fact that the operators are crowded close to the windows for the purpose of securing as much natural light as possible. In those buildings where the window area is limited, as in the buildings situated in the centre of the block, it can be readily understood that with such crowding together the air in the immediate vicinity of such workers becomes vitiated through body emanations, causing that condition formerly termed "crowd poison."

The process of pressing is one which requires hard labor, and in the factories is done by adult males. As the number of pressers are few in proportion to the other workers, the process is carried on in the least desirable portions of the factory. Fortunately for the pressers, the irons are at times situated near a window, but the majority are in the centre or corners of the loft.

In pressing the goods a damp cloth is used, and as the operator must bend over his work, he receives the full effects of the vapors generated. The occupation of presser is, seemingly, the one most dangerous to the health of workers engaged in the garment industry. In the shops where coal furnaces are used to heat the irons, the danger to the pressers from carbon monoxide poisoning is not so marked as where the gas irons are used. Where the irons are heated on a gas stove, the danger is increased, as the operators are constantly bending over the stoves to change the irons. Where gas irons are used, the danger is intensified, for in addition to the laborious work, there is the added danger from the fumes of the products of combustion, the carbon monoxide gas, the vapors from the damp pressing cloth and the heat.

It is well known that laborious work tires the muscles, that air vitiated from products of combustion produces drowsiness, that carbon monoxide destroys the red blood cells, thereby decreasing the percentage of oxygen in the body which means inhibition of the real stimulus for muscular and

mental activities, and that vapors and heat enervate; what wonder, then, that with all these combined to affect the worker, resort to stimulants becomes necessary.

Prof. Glaisel has shown that constant working in close illuminating gas atmosphere causes a condition of lethargy leading to the use of alcoholic stimulants, and cites the tailoring industry as an example. From inquiries made among the workers, a large number admit that the use of stimulants is necessary. In many shops bottled beer is kept and sold to the workers, and many of the food peddlers carry as the most profitable part of their stock bottles of alcoholic stimulants, the best customers being the pressers.

From personal observations and examinations, I am fully aware that many of the pressers suffer from pulmonary affections, and the cases of pulmonary tuberculosis reported from the New York City Health Department Clinic shows that of all occupations 2.5 per cent are pressers.

I feel assured that a large number of pressers suffer from the effects of carbon monoxide poisoning; the majority are anæmic, and suffer from gastrointestinal and pulmonary disorders, and, though no statistics are obtainable, many are treated in the dispensaries and privately for these conditions, which, in my opinion are caused by the effects of carbon monoxide inhalation, but which is not recognized as a cause.

In a modern loft building where the pressers' table was situated at a window, gas irons in use, and natural means for ventilation relied upon, over 1 part carbon monoxide, and 17 parts carbon dioxide per 10,000 volumes were found at the breathing level of the pressers. In a similar loft where mechanical means for ventilation were in use, but a trace of carbon monoxide were found, and the carbon dioxide was only 7 parts. In converted dwellings, 1½ parts of carbon monoxide, and 18 parts carbon dioxide were found at the pressers' tables, and in cellar shops over 2 parts carbon monoxide were found. From the high percentages of carbon monoxide and carbon dioxide found together at the pressers' tables, it is evident that the process of pressing with gas irons is dangerous to health, for it is known that when carbon monoxide and carbon dioxide are combined, they seem to increase the toxicity of each other, and can do injury in proportions in which singly they would be less harmful.

It has been my purpose if possible, to secure physical examinations of a number of the workers with a view toward determining the influence of illuminating gas upon their health, especially as to whether there was an anæmia due to carbon monoxide, vitiated air, or general malnutrition. Visits were made to a number of associations to which the pressers belonged, short talks were given regarding sanitation in the shops, and volunteers were asked for to submit not only to physical examinations, but to blood tests, for the purpose of demonstrating the effects of working in an atmosphere of illuminating gas vitiation. Unfortunately this phase of the investigation was not carried out.

The fact must not be overlooked that general shop conditions have a bearing upon the health of the workers. The sanitary conditions of a shop reflect not only the character of the proprietor, but of the workers. In many shops toilets are filthy, floors dirty, and food refuse and cigarette butts are scattered upon work tables and under benches. In other shops, despite the efforts of the proprietor to keep his place sanitary, the toilets

are dirty and food refuse is scattered about. Such conditions can be prevented through the individual worker observing the simple rule of hygiene, personal cleanliness.

One cause for unsanitary conditions arises from permitting the sale of food stuff and eating at the work tables during the working hours. In many factories gas or gasoline engines are installed for furnishing power; no mechanical means for ventilation are in use, and so the air becomes vitiated from the products of combustion and carbon monoxide. Tests made in a small shop situated near the river, and with splendid means for natural ventilation, showed 15 parts carbon dioxide and a trace of carbon monoxide when the gasoline motor was operated.

In the small shops in the old loft buildings and converted dwellings, no dressing rooms are provided owing to the lack of floor space. Such dressing rooms as are found cannot even be called closets. They are rarely used, and generally contain rubbish.

In the majority of the factories devoted to the industry, washing facilities are a luxury, and but few have suitable wash rooms.

In many of the modern shops, and in all of the shops situated in the older loft buildings and converted dwellings, beds and bedding were found which are used by the watchman, and, upon inquiry, it was found that the watchman works somewhere else during the day and uses the loft for his bed room at night. Examination of some of the bedding showed that it was not only unclean, but that in many cases vermin were present.

A great difficulty to be overcome lies in securing general ventilation, for, in the majority of cases, efforts to provide decent ventilation are rendered futile by the action of those intended to be benefited.

In the majority of the shops the males smoke and throw the butts of cigars and cigarettes about. There is not only danger of fire from this habit, but danger from disseminating communicable pulmonary diseases through the medium of the saliva and sputum soaked ends which have been in the mouth, and are thrown on the floor there to dry up and fill the air with dust and germs.

In the technical report submitted, and in my yearly report, remedial measures applicable to the industry have been recommended, but without the co-operation of the employer and employees they will be of small value in making the industry a healthful one.

The majority of the workers are foreigners having but a small understanding of English, so that a great part of the remedy must be supplied through a campaign of education beyond the domain of the Department.

III. FELT HAT INDUSTRY.

An investigation was undertaken for the purpose of determining the danger from mercury poisoning to workers in the felt hat industry. In order to understand more clearly the danger to which the workers are exposed it is probably advisable to briefly consider the toxicology of mercury.

Metallic mercury is known chemically as hydrargyrum, hence its symbol Hg., meaning literally "water silver" signifying that mercury looks like silver and flows like water, a fact so well known that for ages it has been termed quicksilver. The metal is obtained from mercuric sulphide (cinnabar), deposits of which are found in Spain, Austria, Russia, Italy, Mexico,

California and Texas; the production in the United States is about 1,900 tons annually.

According to authorities, the obtaining of mercury is one of the most repulsive and dangerous occupations. Dr. Theo. Sommerfeld of Germany, Sir Thos. Oliver, M.D., of Great Britain, and Dr. Putzeys of Belgium were appointed by the International Association for Labor Legislation, a committee to prepare a list of industrial poisons. The subject of mercury is treated as follows:*

Name of substance. Mercury, hydrargyrum, Hg. Silvery white, brilliant, not changing in atmospheric air, evaporating at ordinary temperatures.

Mercury alloys. Amalgams with gold, silver, zinc, tin, cadmium, lead, copper.

Mercury compounds. Corrosive sublimate, mercuric oxide, nitrate, sulphate, chloride, fulminate of mercury.

Industry where prepared or used. Mining attacks one to two per cent of the workers; smelting process attacks eight per cent of those engaged in it. It is used extensively in chemical factories, extraction of gold and silver, gilding, silvering and bronzing processes, filling of barometers, thermometers, manometers, glow lamp industry, quicksilver air pumps, caps and explosives, silvering of mirrors, manufacture of felt hats, dyeing of hair, calico printing, photography, preserving of anatomical preparations and wood, etching on steel. [In this state I find that silver nitrate has replaced mercury in the silvering of mirrors.]

Method of entrance into the body. As a vapor through the organs of respiration; through the digestive tract by soiled fingers.

Symptoms of poisoning. Inflammation of the gums and the mucous membranes of the mouth, ulcers in the throat and mouth, inflammation of the jaw bone, necrosis of the jaw bones, loss of the calcium salts in bone thereby causing a deficiency in rigidity, derangement of the stomach and intestines, weakness, emaciation, and anaemia. Dermatitis, pustules on the skin, disturbed sensibilities, excitability, irritability, depression, hallucinations. The skin may be partly below normal sensitiveness (anaesthesia), or partly supersensitive (hyperaesthesia), there is difficulty of speech, exaltation of reflex action, palpitation, sexual function deranged in male and female; tremors of hands and groups of muscles. Mercury cachexia showing itself in anaemia, emaciation, atrophy of fat and muscles, relaxed skin, and want of appetite.

Preventive measures. Leading off of the vapors, proper ventilation of the workrooms, prevention of the spilling of mercury, daily cleaning of workrooms, personal cleanliness of workmen.

In case of poisoning. Hot baths and stimulants, good nutrition, arsenate or iodide of potassium internally.

Mercury begins to volatilize and give off vapor at 8.5° F. (15°C.), and this property increases with heat; so it can be seen that workers who are obliged to come into contact with mercury are exposed to danger of poisoning. The danger from mercurialism is not confined to acute attacks. There may be nervous affections and paralysis resulting from chronic poisoning, and there may be an hereditary influence exerted. Dr. Kussmaul of Fürth (in Untersuchungen über dem constitutionellen Mercurialismus) has given the matter grave thought and reports that children born of women suffering from mercurialism are feeble, rachitic and prone to tuberculosis. One case is reported by Beugrand of an infant with congenital mercurial tremor. It is reported that children are healthy when born of parents not working in occupations where mercury is used, whereas children born of the same parents after having been engaged in work where mercury was used are diseased. Lize has noted this heredity among the children of hatters (Lloyd). It is reported that women engaged at silvering mirrors with mercury frequently abort.

* Cf Bulletin of U. S. Bureau of Labor, No 86, p. 164.

It is quite evident, then, that the danger from mercurialism is one of grave import, and is deserving of careful consideration.

In the felt hat industry, the danger from mercurialism has been to those workers engaged in handling the body of the hat, or the material entering into its formation. The body is made of felted fur from coney, nutria, hare and rabbit. The felt hat industry in this state is not an extensive one, and really consists of associated industries, those of the hatters' fur makers, the body makers, and the finishers.

Only one concern has a fur factory directly in connection with the felt hat making. During the past few years, it has gradually ceased operating this portion of the industry claiming that the stock can be imported much cheaper than they can make it.

It is probably advisable to consider each industry separately, especially as the greater danger from mercurialism is in the manufacture of the fur.

HATTERS' FUR.

In the manufacture of hatters' fur the initial processes are cutting and sorting. The dried skins are opened either by sharp hand knives, or circular knives driven by power. The workers are all males, usually Slavs, Poles, Italians and Greeks. The rooms devoted to this work are large and light, as considerable space is required to sort the skins; however, despite the large amount of cubic air space per person, the air is full of dust, consisting mostly of fine hairs which are thrown off by the constant handling of the dry pelts.

The pelts are cleaned and the strong coarse hairs removed so as to leave the fine fur. In handling expensive pelts such as coney and nutria, the hairs are plucked by hand, the operators using a blunt knife. At present it is not done in this state, though some years ago I recall having seen women engaged in the work. At present, the majority of the manufacturers shear the pelts by forcing the fur side against rapidly revolving blades of steel which remove the coarse hairs but leave the fine silky fur. Many factories employ women at the shearing machines.

The next process is the carroting of the fur and it is with this process that the danger to the workers from mercurialism begins.

Carroting is an artificial method of increasing the felting property of the fur by an operation which twists the fibres and raises the point of the scales which surround it. The process is accomplished either by hand or machine, and consists of thoroughly impregnating the fur with a solution of nitrate of mercury. In the hand method, the pelt is laid on a bench fur side up and scrubbed with a brush which has been dipped in the carroting mixture. The carroting machine consists of a rapidly revolving circular brush kept constantly wet by passing through a trough containing the carroting mixture. The worker presses the fur side of the pelt against the revolving brush, and so impregnates the fur more evenly with the solution than in hand work.

The impregnated pelts are then placed on trays and put into the carroting ovens where they are exposed to a high temperature for a short period, after which they are taken out and removed to the drying rooms where they

are left for several days. They are then stored in bins, sometimes being slightly sprinkled by a dilute acid solution, and left until ready to be cut.

After thorough drying the skins are again brushed to remove as much dust, dirt or coarse hairs that may not have been previously eliminated. The brushing is done by machinery, which in many plants is operated by young women, principally foreigners.

The skins then pass to the cutting machines, which, through an ingenious arrangement of rapidly revolving knives, shred the skin, and leave the fur coming from the machine intact; the fur is then examined, folded, placed in bags, and either shipped direct to the hat factories, or sent to machines for a more thorough cleansing and grading of the fur.

This process is called blowing, and the machines are quite long, enclosed in glass or fine wire mesh; the fur is placed in one end, and by means of a travelling apron carried along through a series of revolving pickers which tease the fur; a fan keeps blowing the teased fur about, and, through specific gravity, the dirt is removed and the fur graded into various bins. In many of the hat factories, this process is carried on through a number of machines so that a very fine fur, almost down-like is obtained.

This fur is then mixed with either raw stock or other stock both by hand, and machine, the various proportions being trade secrets. The process is an extremely dusty one, and none but males, usually foreigners, are engaged in the work.

FELT HAT MAKING.

The first process in the making of a felt hat is forming. This is accomplished by means of large machines driven by power; at one end of the machine is a hopper which automatically weighs out the amount of fur necessary for one hat, at the other end is a turn table upon which is placed a perforated copper cone about three feet high. The turntable and cone are enclosed by a cylindrical covering open at the top, and with side doors to remove the cone. By means of an exhaust fan, the fur is drawn through a series of pickers and sharp knives and deposited evenly upon the surface of the revolving cone. After the fur has all been deposited upon the cone, it is sprayed with hot water before removal, or after removal is dipped into a tub of hot water. The cone shaped fur body is then carefully removed from the copper cone, carefully examined, wrapped in a woolen cloth, and hand hardened by expressing as much moisture as possible. These bodies are then sent to the planking room for sizing and further hardening, which is really the process of felting the fur and shrinking the body.

The term planking is derived from the fact that in the hand process a large tub of hot water is surrounded by planks upon which are placed burlap cloths. The plankers place the fur bodies upon the burlap and sprinkle them with hot water; the bodies are then folded within the burlap and gently rolled a few times, then opened and examined, this process being repeated a number of times until the body of the hat is strongly felted or hardened. This method is still in use, but the more modern sizing is accomplished by passing the body through a sort of wringing machine equipped

with grooved spiral rollers which work over a trough of boiling water. The pressure is more even through such machines than in hand rolling.

The hats are then shaved to remove such hairs as have not been gotten rid of in the planking process and is accomplished either by machines or by hand. After shaving, the body is passed through a series of processes whereby it is further reduced in size, stiffened, and blocked into shape. In all the processes the work is decidedly wet, as large quantities of hot and cold water are used, and the rooms filled with the vapor thus caused. All the workers are males.

The bodies are now recognizable as hats, and are ready for dyeing and finishing. For the derbies, the bodies are treated to a further coating of shellac, which is forced into the hat under steam pressure, and the hat placed in an oven for drying.

FELT HAT FINISHING.

In finishing, the processes are many and varied; to describe each process fully or technically would require many pages, especially as there is a difference between soft hat and derby hat finishing. Considering the processes briefly, they all have to do with shaping the hat, smoothing the outside of the body, curling the brim, and finally trimming.

The hat is first subjected to live steam, than placed in hydraulic machines which block the crown into the desired shape. A water stiffening is applied to the inside of the hat, it is dried, and then the hat is ironed to remove all wrinkles or uneven surfaces. The ironing in most places is done by automatic gas iron machines.

The brims are then pounced, that is rubbed smooth by a sand papering machine after which the hats are placed in a singeing oven to burn off such hairs and fibre as have not been removed by pouncing. The hat is then ready for the finisher.

The hat finisher places the hat on a revolving block called a lathe, and with a piece of sand paper smooths off the whole hat. He then goes over the hat with a cloth which has been dipped in hot oil or grease, and so imparts a smooth fine finish to the body.

The hat is then ready for brim curling. The brim is first cut or shaved to the desired width, the edges are then softened by a hot iron and curled over, both shaving and curling being accomplished either by hand or by machine. The hat is then placed on a hollow iron table heated by steam, and covered with hot sand bags; this process is called flanging, and prepares the brims for the final curl and pitch, this final process usually being accomplished by hand upon a board shaped like a hat brim, and called a set board.

The final stage through which the hat passes is trimming. This is done by females and consists of sewing on the binding, putting in the leather band, and in some cases a lining. The hat is then ready for the market.

In the manufacture of soft hats, pouncing is a separate branch of the finishing, being done by men called pouncers. Here the hats are placed on a revolving lathe and subjected to sandpapering, the paper being held in the hand of the operator.



DANGERS IN THE PROCESS.

In the manufacture of felt hats the principal danger has always been considered to arise from the use of mercury, and though many authorities have investigated the industry, analytical reports specific as to the actual processes wherein the danger is most prominent are very meagre. It is fully agreed upon that the danger from mercurialism begins with the process of carroting the fur. In considering the industry, my observations have not been confined to the question of mercurialism alone.

Starting with the first process in the manufacture of hatters' fur, namely, opening and sorting the pelts, we find that organic dust, consisting chiefly of fine hairs, fills the atmosphere of the rooms where such work is carried on. In opening the pelts with a hand knife, the worker bending over the pelts is exposed to the full force of the dust and hairs, whereas the operator at the machine knife is not exposed to quite so much dust. It is noticeable that good general ventilation by mechanical means does not remedy the condition, satisfactory results being obtained only where the dust is removed directly from the point of origin by means of an exhaust system.

To demonstrate the fact that during the process the workers are exposed to the danger of inhaling the dust, a piece of gauze was placed over the nose and mouth, and, after standing alongside of a worker (both hand and machine) for about ten minutes, a small amount of felted fur was found on the gauze. Here was proof of the danger as well as proof of the unserviceableness of using respirators in this sort of work, as the hair is partially felted by the breath, and would mat and clog up a respirator thereby making breathing difficult.

The results of analyses of samples of air secured in opening and sorting rooms showed as high as 1,700 particles of hair per litre of air, and the bacterial count showed as much as 28 colonies of bacteria per litre of air.

In the shearing and brushing of the raw pelts the danger from dust is not so marked, as the knives and brushes are completely enclosed. The danger may, however, be entirely obviated by means of an exhaust system connected with the machines and this method is pursued in some factories. Many women are employed at this work.

In the carroting process the workers are all males. Here the amount of dust in the air is slight, due to the process being a wet one, but nitric acid fumes are present, and, where the carroting ovens are in the same room, the high temperature and low humidity increase the danger from the irritating acid fumes, and from the mercury, which volatilizes at a low temperature; this is very noticeable as cold weather comes on.

The remedy for this condition is good general ventilation; analyses show that in carroting rooms where mechanical means were used to remove fumes and change the air, no mercury was found in the atmosphere. The workers are foreigners and it was impossible to obtain any accurate information. It was admitted in some places that the workers had suffered from mercury poisoning in the form of the shakes, but the facts were not definite, and there was a reluctance on the part of the workers to submit to a physical examination. Where it was possible to examine the teeth

results were negative as the workers were ignorant of personal hygiene, and used tobacco, so that it was impossible to attribute the caries found specifically to mercury or nitric acid.

In many of the factories gloves are furnished the carroters, but they are not kept in repair, so that they are worthless as a protection. To prevent exposure of the workers to the fumes and heat of the ovens, one firm uses the following method. After carroting, the skins are placed on a traveling frame which passes through a long oven and delivers the dried skins at the other end.

After the skins have been carroted, the workers who handle them are exposed to the danger of organic dust plus mercurialism. In the brushing of the fur the danger is eliminated by having an exhaust system connected to the brushing machines, and nearly every factory is so equipped, but in the case of the cutting machines there exists a difficult problem. These machines are completely enclosed, there being just a small opening for the pelt to enter and another for the fur to be delivered, and through the rapidity with which the circular knives move, the dust is thrown to the bottom by centrifugal force, and the fur is left intact. It is claimed that to use an exhaust system in connection with the machine would destroy the contour of the fur and lose considerable of the valuable product. It is reported that in Great Britain an efficient and practical exhaust system has been connected to such machines.

In the cutting rooms the danger from mercurialism is due to the amount of fur present in the air. The results of analyses show that where the amount of dust (especially hairs) was small, merely a trace, or no mercury at all was found, but where the amount of dust was large, as high as 2.6 milligrams of metallic mercury per cubic meter of air were found.

Dr. Thorpe of the British Governmental Laboratory reports finding 1.34 per cent nitrate of mercury in a sample of fur taken from a cutting machine. Inspector Vogt and myself secured a carroted skin weighing 65.243 grams, and analysis showed .0543 grams of nitrate of mercury present or .0832 per cent. A complete fur cutting as it came from the machine was next secured and weighed 35.5 grams, analysis showed .0482 grams of nitrate of mercury present, equal to about .0298 grams of metallic mercury. As Dr. Thorpe does not state the total amount of sample of fur used in the analysis, it is difficult to make proper comparisons especially as our findings are very much less than his.

The operators of the cutting machines are females, and the examiners of the fur as it is delivered from the machines are both women and young girls, who are exposed to the very fine fluff which despite careful handling is liable to arise.

Inquiries made among these workers failed to elicit any information which might indicate that any suffered from mercurialism, and as a rule they showed no external symptoms; the best proof is by means of a physical examination being made, but this was impossible. Many are foreigners, and though some appeared anaemic, it would be a difficult matter to declare the anaemia due to mercurialism. The teeth as a rule seemed well taken

care of, though some of the gold fillings appeared as if there was a slight amalgam present.

In the blowing room the danger from the dust is in the mixing and feeding. The workers are all adults, few in number, and they do not remain constantly in the blower or picker rooms. The machines are all enclosed in wood or fine wire mesh, in order to prevent the loss of fur which is valuable material. Analyses made of samples of air taken from such rooms showed 29.7 grams total solids in a million litres of air, of which 5.20 grams were organic matter. In one cubic meter of air 29 long fur hairs and 170 small ones were found, while four milligrams of mercury were found per million cubic meters of air.

In making the body of the hat there is an added danger from humidity, due to vapors created by the hot water used on the cone and in forming the hat. In this moist air the amount of dust is kept down, but in feeding the fur into the hopper, the operators are exposed to the fine fluff, and in many of the factories the hopper feeders are young women. While information could only be obtained through inquiries, it would seem that the effect of the work is deleterious to health. Analyses showed no mercury present in the air and the amount of dust was very slight.

The operators at the cones are male adults and from general appearances are of fine physique, this being quite evident as they usually wear very little clothing owing to the character of the work and the high temperature and humidity.

As reported by Jungfleisch (*Annales d'Hygiene*, Dec., 1892), nearly .5 per cent of metallic mercury was found in a layer of felt deposited upon a forming cone. This seems rather high in comparison with our findings.

All replies to inquiries as to mercury poisoning were in the negative. In the various processes through which the body passes, such as planking, sizing, shaving, stiffening, dyeing, and blocking, the workers are strong adult males and are exposed to an atmosphere of high temperature, and vapors, due to the extensive use of hot and cold water; in fact the work is such that the operators are at all times thoroughly wet. Analyses showed no mercury present in the air and water taken from the tubs showed but a minute trace. That very little nitrate of mercury is left in the body after passing through so much hot water, can be readily understood when we consider that the nitrate is about as soluble as ordinary table salt, and that the metallic mercury is volatile at a low temperature.

The majority of the workers are foreigners and replies to inquiries as to mercurialism were in the negative, but it was admitted that they suffered from pulmonary affections and rheumatism. Some of the old operators said that in the old days some of the men did have the shakes but not now. This may have been due to the fact that formerly metallic mercury was used and solutions improperly made; the mercury formed a very insoluble combination with the keratin of the hair which was not removed in the processes subsequent to carroting.

In the manufacture of stiff hats, such as derbies, the body is shellaced. Here the danger arises from the liability to intoxication from the ethers

and wood alcohol used, as well as danger from explosion of the highly inflammable materials.

Just how much danger the workers on the formed hat body are exposed to may be seen from the following analysis made of a completed body ready for finishing. Weight of hat 65.3 grams, amount of mercury present .0025 grams which is almost infinitesimal. Jungfleisch reports having found .7 per cent of mercury in a hat worn for some time. In my opinion there was either an error in calculation or a typographical error in his report.

The workers engaged in the processes of finishing the hat are mostly males and in many cases boys. The dangers incidental to these processes arise from dust, temperature, humidity, carbon monoxide and carbon dioxide. Many of the processes are carried on in the same room so that all the workers are exposed to the same danger, irrespective of their particular work. The most dangerous portion of the finishing process is the pouncing and hand finishing. In this portion of the work a fine sandpaper is used and the dust created contains quantities of a fine sharp glassy substance known as silica. Many factories have exhaust systems attached to the pouncing machines which minimize the danger. In some factories young boys of poor physique operate the brim pouncing machines, unprotected by exhaust systems. Analyses of the air in the vicinity of such machines showed 80.2 grams per million litres of air. A further analysis of one gram of this dust showed .01021 grams of silica present, and in an analysis of some of the floor sweepings a faint trace of mercury was found.

In the hand finishing there is danger not only from this dust, but also from organic matter in the grease used, poisoning from carbon monoxide from illuminating gas used, possibly also, from mercury for, in analyses of air taken at the breathing level of finishers in a few small shops, a trace of mercury was found. In none of the factories are exhaust systems connected with the finishers' tables.

Inquiries made among the finishers failed to reveal any cases of mercury poisoning, but a large number do suffer from pulmonary affections, and the secretary of one association reports a number of cases of pulmonary tuberculosis. Mortality statistics show a large number of deaths among hat finishers from phthisis and tuberculosis.

From a superficial examination of a number of finishers, I found them of good physique, but many had slight bronchial affections. Among the hand finishers in the small shops in the large cities, I noticed a number were anæmic, but could obtain no history of illness or make a physical examination.

In many of the factories boys and girls are employed in processes where illuminating gas is used for the purpose of heating apparatus and machines. Analyses of samples of air taken from such rooms showed as high as four parts of carbon monoxide per ten thousand volumes. Many of the workers complained of all the symptoms of carbon monoxide poisoning, and Inspector Vogt and myself felt the depressing effect of the vitiated atmosphere after spending the day in such rooms.

In the trimming rooms the workers are females and apparently in good



health. Analyses showed no mercury in the air, and a very small amount of dust and organic matter present. What is needed mostly in these rooms is proper and sufficient ventilation.

Throughout the entire process of felt hat making from raw pelt to finished hat, meals are brought into the various workrooms and eaten there, and very little attention is given to personal cleanliness.

Summarizing:— in the industry there seems to be a danger present which is not fully recognized, viz., that from dust and fumes. The danger from mercurialism is, in my opinion, limited to the carroting, and handling of the carroted product before forming the body of the hat; an intensive analysis of the industry seems to demonstrate this fact.

Hitherto, it has been a disputed point as to which process of the industry is mostly to blame for mercurialism. Many authorities claim that it is in the carroting process, others in the finishing process, but the statistical facts in proof thereof are rather meagre. That the danger has been materially decreased through the use of properly made nitrate of mercury is quite evident. Formerly each furrier made his own nitrate of mercury from pure metallic mercury and nitric acid, hence small globules of metallic mercury became lodged in the fur, and so became a danger to all workers. This fact may account for the conditions reported by investigators of the finishing processes some years ago, and even at the present time.

The investigation clearly proves that so far as the industry in this state is concerned the danger from mercurialism greatly decreases when the body of the hat leaves the forming machines, but that the danger from other conditions increases. It has been thoroughly demonstrated that certain infectious diseases are disseminated by means of hair, and that organic matter is the medium for bacterial growth. We have then, in the industry, the following dangers:

- (1) Organic dust, increasing the danger through being irritating, insoluble, poisonous, pathogenic.
- (2) Poisoning from carbon monoxide.
- (3) Exposure to high temperature, humidity and dampness.

In view of the foregoing facts, I would respectfully recommend the formulation of regulations along the following lines.

REGULATIONS FOR THE EMPLOYER.

There should be an attending physician at each factory.

All employees should be examined physically every six months, and before returning to work after illness.

All cases of illness should be seen by a physician and if the result, directly or indirectly of the industry, should be recorded in a book accessible to the Department.

A sufficient supply of wash basins (one to every five workers) with hot and cold water, soap and hand brushes should be provided.

Time should be allowed for washing up before meals and before leaving the factory.

Overalls should be provided for males, and aprons and head coverings for females, the same to be discarded upon leaving the factory. Overalls, aprons and head coverings should be washed once a week.

Rubber gloves and aprons should be provided for workers engaged in the carroting process, the same to be kept in good repair.

No food should be brought to, prepared or eaten in, a room where any of the processes are carried on. A room for meals should be specially set apart for that purpose.

No person under eighteen (18) years of age should be employed in any process or room where dust or fumes are freely given off, or where shellac varnish is made or applied.

All work rooms should be ventilated by mechanical means so that an abundant supply of fresh air may be maintained.

Where dust is generated during the process of manufacture, an exhaust system should be provided, consisting of hoods and piping connected to an exhaust fan of sufficient power to remove all such dust at the point of origin and in a direction away from the worker, the system to be operated during the time work is carried on.

In all carroting rooms, artificial means for ventilation should be provided and maintained to remove fumes from the ovens.

All floors should be of such material as to be easily subjected to removal of dust by moist methods and should be cleansed daily.

The mixing of the carroting solution should be done in a special room provided for the purpose, or after working hours.

All rooms where wet processes are carried on should have an impervious floor and be properly drained.

Workers exposed to mercurialism should be alternately shifted to other work so as to lessen the danger.

Where illuminating gas is used to heat tools, apparatus or stoves, all fumes, gases or vapors generated during the processes of manufacture where such tools, apparatus or stoves are used, should be removed from the point of origin by means of properly installed exhaust systems.

Notices regarding the danger of poisoning from materials used, the symptoms, remedy and preventive measures should be posted in each work room and dressing room, and in several languages.

REGULATIONS FOR EMPLOYEES.

Extreme cleanliness should be observed. Care should be taken to wash up thoroughly before eating, and before leaving after finishing work.

All workers when at work should wear an overall suit and head covering, which should not be worn outside the factory.

No food or drink should be brought into any of the workrooms. Meals should be eaten only in the room provided for that purpose.

Workers should make use of such safeguards as may be provided by the employer for the prevention of injuries or poisoning.



No worker should in any way interfere with the means and appliances provided for ventilation or the removal of dust or fumes.

None but male adults should do any cleaning of the floors.

All workers should submit to a physical examination every few months, and, if ill, should report at once to the physician.

Employees should become familiar with the symptoms of poisoning from the materials used, and the means for prevention, as well as the remedy to be applied.

C. T. GRAHAM-ROGERS,
Medical Inspector.

RESULTS OF AIR ANALYSES IN CLOAK AND

Number of building and date.	Floor.	NUMBER OF EMPLOYEES.		Means of ventilation.	Means of illumination and heating, and number and location of pressing irons.	Place of test.
		Male.	Female.			
LOFT BUILDINGS.						
1; Feb. 20	5th	57	27	Windows: 4 N., 2 E., 15 S. . .	Gas and electricity; steam heat; 15 gas irons in center of loft.	Center At irons Cutting dept. rear.
	9th	46	13	Windows : 5 N., 2 E., 19 S. .	Gas and electricity; steam heat; 15 gas irons at windows.	Center At irons Side Cutting dept., front.
2; Mar. 22 and 23	11th	41	10	Windows: 3 N., 2 E., 14 S., 3 W. 3 N. in L.	Gas and electricity; steam heat; 7 gas irons in center of loft.	Center Cutting dept. Side At irons; front
	8th	67	21	Windows: 3 N., 2 E., 14 S., 3 W. 3 N. in L.	Gas and electricity; steam heat; 13 gas irons, north center at windows. 5 gas irons, front center.	Center of L. Center; front. Side At irons; center At irons; front. Side
	10th	82	18	Windows: 3 N., 2 E., 14 S., 3 W. 3 N. in L.	Gas and electricity; steam heat; 7 gas irons at windows.	Rear At irons
	6th	25	90	Windows: 3 N., 2 E., 14 S., 3 W. 3 N. in L.	Gas and electricity; steam heat; 4 gas irons, center of loft.	Rear Center
	5th	30	10	Windows: 3 N., 2 E., 14 S., 3 W. 3 N. in L.	Gas and electricity; steam heat; 7 gas irons at windows.	Rear Center
	4th	70	11	Windows: 3 N., 2 E., 14 S., 3 W. 3 N. in L.	Gas and electricity; steam heat; 14 gas irons at open windows.	Center At irons
3; Feb. 27	6th	25	7	Windows: 6 N., 2 E., 2 S.; 14-inch exhaust fan with duct to center of loft.	Gas and electricity; steam heat; 5 gas irons at rear near windows.	Rear At irons Center



SUIT FACTORIES IN NEW YORK CITY, 1911.

Time.	TEMPERATURE (FAHRENHEIT).		HUMIDITY.		RESULTS OF AIR ANALYSIS.						
	Out-doors.	In-doors.	Out-doors.	In-doors.	Parts of CO ₂ in 10,000 vol-umes.	Parts of CO in 10,000 vol-umes.	Parts of ammonia in 1,000,000 vol-umes.	Grams of oxidis-able organic matter in 1,000,000 liters of air.	Grams of solids in 1,000,000 liters of air.	Number of colonies of bacteria per liter of air.	Number of moulds per liter of air.

RECENT TYPE.

A. M.	25	70	24	58	16	-1	0.68	59.0	2					
P. M.	28	66	26	58	14										
A. M.	25	71	24	53	15										
P. M.	28	69	26	47	19										
A. M.	25	70	24	52	16										
P. M.	28	66	26	49	18										
A. M.	25	66	24	55	16	-1	0.65	47.0	2					
P. M.	28	68	26	58	18										
A. M.	25	65	24	57	20										
P. M.	28	66	26	53	18										
A. M.	25	66	24	54	16										
P. M.	28	68	26	58	18										
A. M.	25	65	24	52	17	0.60	40.0	2						
P. M.	28	65	26	54	17										
A. M.	52	62	46	55	10					+1		
P. M.	65	65	63	57	17										
A. M.	52	63	46	54	10										
P. M.	65	63	63	56	12										
A. M.	52	62	46	55	12										
P. M.	65	64	63	54	14	+1						
A. M.	52	64	46	55	14										
P. M.	65	65	63	58	18										
A. M.	52	66	46	58	16										
P. M.	65	68	63	59	17										
A. M.	52	66	46	53	14						
P. M.	65	68	63	59	15										
A. M.	52	66	46	56	17										
P. M.	65	67	63	56	17										
A. M.	52	69	46	57	10										
P. M.	65	69	63	58	12						
A. M.	52	67	46	54	7										
P. M.	65	68	63	56	9										
A. M.	52	66	46	56	9										
P. M.	65	66	63	56	9										
A. M.	52	63	46	50	10	†	0.46	45.0	1					
P. M.	65	63	63	52	14										
A. M.	52	66	46	48	12										
P. M.	65	65	63	48	16										
A. M.	52	66	46	52	10						1	0.60	58.0	3
P. M.	65	63	63	53	20										
A. M.	52	70	46	58	20										
P. M.	65	70	63	61	23										
A. M.	52	64	46	50	10	-1	0.45	60.0	4					
P. M.	65	66	63	56	12										
A. M.	52	67	46	50	12										
P. M.	65	66	63	54	15										
A. M.	52	65	46	52	12										
P. M.	65	65	63	52	14	-1	0.50	48.0	2					
A. M.	52	63	46	55	12										
P. M.	65	65	63	54	13										
A. M.	49	65	43	49	14						†	0.35	50.0	2
P. M.	45	67	39	50	8										
A. M.	49	59	43	52	8										
P. M.	45	60	39	51	9										
A. M.	49	62	43	50	8										
P. M.	45	62	39	51	9										

† Trace.

RESULTS OF AIR ANALYSES IN CLOAK AND

Number of building and date.	Floor.	NUMBER OF EMPLOYEES.		Means of ventilation.	Means of illumination and heating, and number and location of pressing irons.	Place of test.
		Male.	Female.			
						LOFT BUILDINGS
4; Mar. 1	3d	5	.....	Windows: 6 N., 2 E., 2 S.	Gas and electricity; steam heat.	Center..... Rear.....
	9th	19	5	Windows: 4 N., 2 E., 4 S., 3 W.; 4-inch exhaust fan.	Gas and electricity; steam heat; 3 gas irons at windows.	Rear..... At irons..... Side..... Center..... Rear, center..
	8th	44	13	Windows: 4 N., 2 E., 4 S., 3 W.	Gas and electricity; steam heat; 8 gas irons at windows.	Rear..... At irons..... Side, 1st test.. Side.....
	7th	29	7	Windows: 4 N., 2 E., 4 S., 3 W.	Gas and electricity; steam heat; 5 gas irons at windows.	At irons, rear. At sewers, rear Center.....
	6th	27	6	Windows: 4 N., 2 E., 4 S., 3 W.	Gas and electricity; steam heat; 6 gas irons at windows.	At irons, rear.. At sewers, side
	5; Feb. 16	12th	44	24	Windows: 5 N., 5 E., 6 S., 3 W.; doors: 1 S.	Gas and electricity; steam heat; 10 gas irons at windows.	Center..... At irons..... Cutting dept..
10th		33	10	Windows: 5 N., 5 E., 6 S., 3 W.; doors: 1 S.	Gas and electricity; steam heat; 9 gas irons at windows.	At rear..... At gas irons...
9th		23	9	Windows: 5 N., 5 E., 6 S., 3 W.; doors: 1 S.	Gas and electricity; steam heat; 7 gas irons at windows.	Center..... Rear..... At irons.....
8th		19	8	Windows: 5 N., 5 E., 6 S., 3 W.; doors: 1 S.	Gas and electricity; steam heat; 4 gas irons at windows.	Center..... At irons.....
3d		45	11	Windows: 5 N., 5 E., 6 S., 3 W.; doors: 1 S.	Gas and electricity; steam heat; 8 gas irons at windows.	Center..... At irons.....

* Not reported.



SUIT FACTORIES IN NEW YORK CITY, 1911 — (Continued).

Time.	TEMPERATURE (FAHRENEIT).		HUMIDITY.		RESULTS OF AIR ANALYSIS.					
	Out- doors.	In- doors.	Out- doors.	In- doors.	Parts of CO ₂ in 10,000 vol- umes.	Parts of CO in 10,000 vol- umes.	Parts of ammonia in 1,000,000 vol- umes.	Grams of oxidis- able organic matter in 1,000,000 liters of air.	Grams of solids in 1,000,000 liters of air.	Num- ber of colonies of bacteria per liter of air.	Num- ber of moulds per liter of air.

RECENT TYPE — (Continued).

A. M.	49	58	43	52	9						
P. M.	45	61	39	50	9			0.30	22.0	1	
A. M.	49	57	43	51	9						
P. M.	45	59	39	49	8						
A. M.	36	60	31	55	9						
P. M.	38	67	32	52	12						
A. M.	36	63	31	58	6		†	0.45	50.0	2	
P. M.	38	67	32	56	9						
A. M.	36	60	31	55	7						
P. M.	38	66	32	52	8						
A. M.	36	62	31	55	7						
P. M.	38	65	32	57	10						
A. M.	36	60	31	56	**8						
P. M.	38	60	32	55	**7						
A. M.	36	65	31	58	8						
P. M.	38	67	32	60	6						
A. M.	36	63	31	56	8		†	0.47	49.0	2	
P. M.	38	66	32	57	8						
A. M.	36	67	31	56	15						
P. M.	38	*	32	*	*						
A. M.	36	64	31	58	10						
P. M.	38	67	32	58	12						
A. M.	36	68	31	55	10			0.40	50.0	2	
P. M.	38	67	32	54	9						
A. M.	36	66	31	56	14						
P. M.	38	67	32	58	8						
A. M.	36	66	31	55	9						
P. M.	38	67	32	56	9						
A. M.	36	67	31	59	22			0.70	60.0	3	
P. M.	38	68	32	58	18						
A. M.	36	65	31	57	15		†				
P. M.	38	68	32	54	8						
A. M.	28	66	25	54	14		†	0.70	45.0	1	
P. M.	36	68	32	56	18						
A. M.	28	69	25	53	25						
P. M.	36	69	32	57	25						
A. M.	28	68	25	54	19						
P. M.	36	69	32	56	22						
A. M.	28	58	25	47	9		†	0.48	46.0	1	
P. M.	36	62	32	50	11						
A. M.	28	60	25	47	14						
P. M.	36	61	32	50	15						
A. M.	28	60	25	50	11						
P. M.	36	66	32	50	17						
A. M.	28	60	25	52	12		†	0.50	45.0	1	
P. M.	36	65	32	52	15						
A. M.	28	63	25	50	15						
P. M.	36	67	32	50	16						
A. M.	28	66	25	52	10			0.45	47.0	1	
P. M.	36	67	32	50	14						
A. M.	28	68	25	52	12						
P. M.	36	68	32	50	12						
A. M.	28	71	25	57	23			0.56	54.0	1	
P. M.	36	70	32	56	21						
A. M.	28	71	25	55	16						
P. M.	36	71	32	56	22						

** Noon.

† Trace.

RESULTS OF AIR ANALYSES IN CLOAK AND

Number of building and date.	Floor.	NUMBER OF EMPLOYEES.		Means of ventilation.	Means of illumination and heating, and number and location of pressing irons.	Place of test.
		Male.	Female.			
LOFT BUILDINGS,						
6; Feb. 25	5th	71	19	Windows: 8., 9 E., 12 S.	(a) Gas and electricity; steam heat; 13 gas irons near windows.	Front..... At irons..... Center.....
	4th	15	....	Windows: 8 N., 9 E., 12 S....	Gas and electricity; steam heat;	Center..... Rear.....
7; Mar. 20 and 21	11th	33	4	Windows: 6 N., 5 S., 5 W....	Gas and electricity; steam heat; 6 gas irons near windows.	West end..... Center..... Center, west.. At irons.....
	10th	19	4	Windows: 6 N., 5 S., 5 W....	Gas and electricity; steam heat; 9 gas irons near windows.	North end..... West end..... At irons.....
	8th	57	9	Windows: 6 N., 5 S., 5 W....	Gas and electricity; steam heat; 14 gas irons near windows.	North end..... At irons..... West end.....
	7th	55	10	Windows: 6 N., 5 S., 5 W....	(b) Gas and electricity; steam heat; 10 gas irons near windows.	North end..... At irons..... West end.....
	6th	38	20	Windows: 6 N., 5 S., 5 W....	Gas and electricity; Steam heat; 9 gas irons near center.	North end..... At irons..... West end.....
	5th	5	....	Windows: 6 N., 5 S., 5 W....	Gas and electricity; steam heat; 2 gas irons near windows.	North end..... At irons..... West end.....
	4th	49	14	Windows: 6 N., 5 S., 5 W....	(c) Gas and electricity; steam heat; 12 gas irons near windows.	North end..... At irons..... West end.....

(a) One large arc lamp and 2 gas jets burning. (b) 2 gas jets burning.

SUIT FACTORIES IN NEW YORK CITY, 1911 — (Continued).

Time.	TEMPERATURE (FAHRENHEIT).		HUMIDITY.		RESULTS OF AIR ANALYSIS.												
	Out-doors.	In-doors.	Out-doors.	In-doors.	Parts of CO ₂ in 10,000 vol-umes.	Parts of CO in 10,000 vol-umes.	Parts of ammonia in 1,000,000 vol-umes.	Grams of oxidis-able organic matter in 1,000,000 liters of air.	Grams of solids in 1,000,000 liters of air.	Num-ber of colonies of bacteria per liter of air.	Num-ber of moulds per liter of air.						
RECENT TYPE — (Continued).																	
A. M.	42	60	38	53	14	}	†	0.50	61.0	1						
P. M.	47	64	42	55	10												
A. M.	42	66	38	52	9												
P. M.	47	69	42	53	12												
A. M.	42	61	38	53	7												
P. M.	47	64	42	52	12												
A. M.	42	62	38	50	6												
P. M.	47	63	42	50	12												
A. M.	42	60	38	50	6												
P. M.	47	62	42	51	12												
A. M.	40	62	38	52	12	}	†	0.48	39.0	1						
P. M.	52	56	45	52	10												
A. M.	40	60	38	52	14												
P. M.	52	58	45	50	10												
A. M.	40	60	38	48	8												
P. M.	52	60	45	51	11												
A. M.	40	59	38	50	9												
P. M.	52	63	45	50	14												
A. M.	40	63	38	50	14							}	†	0.51	42.0	1
P. M.	52	67	45	51	15												
A. M.	40	61	38	52	10												
P. M.	52	61	45	54	13												
A. M.	40	63	38	53	14												
P. M.	52	66	45	52	14												
A. M.	40	63	38	55	12	}	†	0.63	40.0	2						
P. M.	52	65	45	58	20												
A. M.	40	67	38	56	10												
P. M.	52	66	45	56	12												
A. M.	40	62	38	53	12												
P. M.	52	65	45	54	15												
A. M.	40	63	38	53	14	}	-1	0.60	42.0	2						
P. M.	52	62	45	58	19												
A. M.	40	61	38	54	12												
P. M.	52	64	45	57	17												
A. M.	40	64	38	51	11												
P. M.	52	62	45	53	16												
A. M.	43	66	38	54	20	}	+1	0.58	50.0	1						
P. M.	47	64	39	56	23												
A. M.	43	67	38	53	22												
P. M.	47	69	39	58	24												
A. M.	43	64	38	52	9												
P. M.	47	66	39	54	15												
A. M.	43	64	38	52	20	}	†	0.50	51.0	1						
P. M.	47	56	39	50	20												
A. M.	43	•	38	•	•												
P. M.	47	56	39	51	9												
A. M.	43	63	38	52	8												
P. M.	47	56	39	52	11												
A. M.	43	66	38	52	14	}	†	0.66	47.0	2						
P. M.	47	68	39	53	15												
A. M.	43	68	38	53	14												
P. M.	47	69	39	51	14												
A. M.	43	64	38	49	11												
P. M.	47	67	39	53	17												

(c) 11 electric lamps and 5 gas jets burning.

*Not reported

RESULTS OF AIR ANALYSES IN CLOAK AND

Number of building and date.	Floor.	NUMBER OF EMPLOYEES.		Means of ventilation.	Means of illumination and heating, and number and location of pressing irons.	Place of test.
		Male.	Female.			

LOFT BUILDINGS,

8; Mar. 14	3rd	13	....	Windows: 6 N., 5 S., 5 W. . . .	Gas and electricity; steam heat; 4 gas irons near windows.	North end At irons West end
	2nd	45	21	Window : 6 N., 5 S., 5 W. . . .	(d) Gas and electricity; steam heat; 11 gas irons at windows.	West end North end At irons
	8th	14	6	Windows: 3N., 3E., 3 S., 1W; skylights: 1.	Gas and electricity; steam heat; 4 gas irons near windows.	Rear At irons
	7th	20	15	Windows: 3 N., 3 E., 3 S., 1 W.	Gas and electricity; steam heat; 6 gas irons near windows.	Rear At irons
	6th	10	3	Windows: 3 N., 3 E., 3 S., 1W.	Gas and electricity; steam heat; 2 gas irons.	Rear Center
9; Mar. 14	7th	54	26	Windows: 4 N., 3 E. 4 S., 1 W.	Gas and electricity; steam heat; 12 gas irons at windows.	Rear Near irons
	4th	35	13	Windows: 4 N., 4 S., 1 W. . . .	Gas and electricity; steam heat; 7 gas irons at windows.	Rear At irons
10; Mar. 16	2nd	15	1	Windows: 4 E., 5 W.	Gas and electricity; steam heat; 2 gas irons in center.	Center Front
	3rd	60	27	Windows: 5 E., 5 W.	Gas and electricity; steam heat; 11 gas irons in center.	Front At irons
11; Mar. 9 and 10	7th	27	3	Windows: 4 N., 4 E. 4 S., 3 W skylights: 3; exhaust fans: 1-14 in. N., 1-14 in. S.	Gas; steam heat; 6 gas irons near windows.	Front Rear, at irons
	6th	19	4	Windows: 4 N., 4 E., 4 S., 3 W.; exhaust fans: 1-14 in. N., 1-14 in. S.	Gas; steam heat; 3 gas irons at windows.	Rear At irons Front
	4th	6	6	Windows: 4 N., 4 E., 4 S., 3 W.; exhaust fans: 1-14 in. N., 1-14 in. S.	Gas; steam heat; 2 gas irons at windows.	Rear At irons
	3rd	9	2	Windows: 3 N., 2 E., 3 S., 2 W.	Gas; steam heat; 2 gas irons at windows.	Rear At irons

(d) 6 electric lamps and 5 gas jets burning.

SUIT FACTORIES IN NEW YORK CITY, 1911 — (Continued).

Time.	TEMPERATURE (FAHRENHEIT).		HUMIDITY.		RESULTS OF AIR ANALYSIS.							
	Out-doors.	In-doors.	Out-doors.	In-doors.	Parts of CO ₂ in 10,000 vol-umes.	Parts of CO in 10,000 vol-umes.	Parts of ammonia in 1,000,000 vol-umes.	Grams of oxidis-able organic matter in 1,000,000 liters of air.	Grams of solids in 1,000,000 liters of air.	Num-ber of colonies of bacteria per liter of air.	Num-ber of moulds per liter of air.	
RECENT TYPE — (Continued).												
A. M.	43	69	38	44	20							
P. M.	47	65	39	50	22							
A. M.	43	65	38	48	16							
P. M.	47	65	39	50	16	†	.....	0.70	59.0	2	1	
A. M.	43	66	38	48	17							
P. M.	47	67	39	49	18							
A. M.	43	66	38	59	15							
P. M.	47	68	39	57	13	+1	.....	0.69	48.0	2	1	
A. M.	43	69	38	59	17							
P. M.	47	68	39	56	24							
A. M.	43	64	38	59	17							
P. M.	47	67	39	56	21							
A. M.	43	62	39	55	12							
P. M.	45	65	40	55	14	†	.....	0.48	50.0	1	1	
A. M.	43	61	39	52	13							
P. M.	45	62	40	54	13							
A. M.	43	64	39	54	20							
P. M.	45	67	40	53	20	1	.....	0.65	42.0	1	.....
A. M.	43	64	39	53	18							
P. M.	45	65	40	55	14							
A. M.	43	61	39	54	14							
P. M.	45	67	40	50	16	†	.....	0.69	50.0	1	.....
A. M.	43	60	39	53	14							
P. M.	45	63	40	52	16							
A. M.	43	65	39	56	17							
P. M.	45	66	40	59	19	+1	.....	0.70	48.0	2	.....
A. M.	43	67	39	56	17							
P. M.	45	67	40	56	17							
A. M.	43	68	39	55	10							
P. M.	45	65	40	55	14	†	.....	0.58	45.0	2	.....
A. M.	43	69	39	55	12							
P. M.	45	68	40	55	12							
A. M.	22	66	19	52	17							
P. M.	25	68	20	52	20	-1	.....	0.78	58.0	1	.....
A. M.	22	63	19	*	12							
P. M.	25	65	20	*	14							
A. M.	22	70	19	53	17							
P. M.	25	67	20	55	26	1.5	.....	0.60	50.0	1	.....
A. M.	22	69	19	52	16							
P. M.	25	69	20	51	10							
P. M.	25	64	20	59	15							
A. M.	40	66	34	56	10							
P. M.	48	65	40	54	11	+1	.....	0.45	57.0	2	1	
A. M.	40	64	34	54	8							
P. M.	48	64	40	53	10							
A. M.	40	65	34	56	11							
P. M.	48	64	40	54	10							
A. M.	40	61	34	47	13							
P. M.	48	63	40	49	16	1	.....	0.50	45.0	1	.....
A. M.	40	62	34	47	8							
P. M.	48	63	40	50	10							
A. M.	59	59	41	53	10							
P. M.	48	60	42	53	10	†	.....	0.48	45.0	1	.....
A. M.	59	57	41	52	9							
P. M.	48	59	42	58	10							
A. M.	59	60	41	56	7							
P. M.	48	65	42	56	9	†	.....	0.50	47.0	1	.....
A. M.	59	*	41	*	9							
P. M.	48	*	42	*	9							

* Not reported.

† Trace.

RESULTS OF AIR ANALYSES IN CLOAK AND

Number of building and date.	Floor.	NUMBER OF EMPLOYERS.		Means of ventilation.	Means of illumination and heating, and number and location of pressing irons.	Place of test.
		Male.	Female.			
LOFT BUILDINGS,						
13; Feb. 15	2d	14	2	Windows: 3 E. (louvre), 3 S., 2 W.; exhaust fans: 2-14 in. S.	Gas; steam heat; 2 gas irons at windows.	Rear..... Center..... At irons.....
	5th	5	.....	Windows: 4 N., 4 E., 4 S., 3 W.	Gas; steam heat.	Center..... *.....
	4th	16	5	Windows: 3 N., 6 E., 3 S., 1 W.; ventilators N. and E.	Electricity; steam heat.	Front..... Rear.....
	5th	.....	5	Windows: 3 N., 3 E.	(c) Gas and electricity; steam heat.	Front..... Center.....
	5th	19	2	Windows: 3 N., 1 E., 6 S.	Gas and electricity; steam heat.	Rear..... Center.....
14; Apr. 23	5th	7	2	*	Gas and electricity; steam heat.	Rear..... Center.....
LOFT BUILDINGS,						
15; Feb. 21	4th	60	13	Windows: 7 N., 15 W., 7 on court.	Gas; coal stoves; 15 gas irons near windows.	Center..... At irons..... North end.... South end....
	5th	17	6	Windows: 3 N., 6 on court.	Gas; coal stoves; 4 gas irons at windows.	Center..... At irons.....
	5th	29	4	Windows: 15 W., 4 N.	Gas; coal stoves; 5 gas irons at windows.	Center..... At irons..... Rear.....
	6th	7	3	Windows: 6 on court.	Gas; coal stove; 2 gas irons at windows.	Center..... At irons.....
	6th	22	3	Windows: 7 N., 15 W.	Gas; coal stoves; 4 gas irons at windows.	At irons..... South end.... Center.....
	16; Feb. 23	3d	27	4	Windows: 6 E., 7 W., 2 side.	Gas; coal stoves; 6 gas irons, side center.	Center..... At irons.....

(c) 2 gas stoves for heating irons

SUIT FACTORIES IN NEW YORK CITY, 1911 — (Continued).

Time.	TEMPERATURE (FAHRENHEIT).		HUMIDITY.		RESULTS OF AIR ANALYSIS.					
	Out-doors.	In-doors.	Out-doors.	In-doors.	Parts of CO ₂ in 10,000 vol-umes.	Parts of CO in 10,000 vol-umes.	Parts of ammonia in 1,000,000 vol-umes.	Grams of oxidis-able organic matter in 1,000,000 liters of air.	Grams of solids in 1,000,000 liters of air.	Number of colonies of bacteria per liter of air.

RECENT TYPE — (Concluded).

A. M.	59	60	41	53	8	}	†	0.80	50.0	2	1
P. M.	48	63	42	53	10							
A. M.	59	66	41	53	8							
P. M.	48	68	42	53	9	}	0.48	45.0	1	
A. M.	59	61	41	53	10							
P. M.	48	62	42	52	10							
A. M.	59	62	41	54	14	}	1.5	0.65	58.0	2
P. M.	48	66	42	57	17							
A. M.	59	62	41	54	12							
P. M.	48	66	42	57	14	}	0.81	60.0	2	
A. M.	24	59	21	52	10							
P. M.	27	61	22	50	12							
A. M.	24	59	21	52	10	}	0.65	58.0	2	
P. M.	27	61	22	50	10							
A. M.	24	65	21	53	22							
P. M.	27	66	22	55	24	}	0.70	50.0	2	1	
A. M.	24	65	21	53	23							
P. M.	27	68	22	57	27							
A. M.	47	65	46	54	14	}	0.70	50.0	2	1	
P. M.	57	63	56	58	17							
A. M.	47	65	46	54	15							
P. M.	57	63	56	59	17	}	0.71	48.0	3	
A. M.	46	62	41	58	10							
P. M.	50	60	44	54	18							
A. M.	46	61	41	57	14	}	0.90	50.0	3	
P. M.	51	68	44	54	19							
A. M.	23	63	20	53	15							
P. M.	26	65	21	51	14	}	1.07	48.0	8	1	
A. M.	23	63	20	52	18							
P. M.	26	63	21	48	14							
A. M.	23	62	20	50	15	}	0.98	51.0	5	2	
P. M.	26	63	21	48	14							
A. M.	23	62	20	49	10							
P. M.	26	62	21	52	13	}	0.90	50.0	3	
A. M.	23	63	20	52	18							
P. M.	26	66	21	52	17							
A. M.	23	62	20	52	18	}	2.15	60.0	15	2	
P. M.	26	64	21	50	20							
A. M.	23	64	20	54	12							
P. M.	26	65	21	50	12	}	0.90	50.0	3	
A. M.	23	67	20	53	15							
P. M.	26	66	21	52	19							
A. M.	23	63	20	54	12	}	0.98	51.0	5	2	
P. M.	26	65	21	51	14							
A. M.	23	65	20	52	15							
P. M.	26	69	21	50	12	}	0.90	50.0	3	
A. M.	23	67	20	52	18							
P. M.	26	69	21	50	17							
A. M.	23	63	20	49	16	}	0.90	50.0	3	
P. M.	26	63	21	48	16							
A. M.	23	61	20	50	12							
P. M.	26	60	21	51	11	}	2.15	60.0	15	2	
A. M.	23	62	20	50	13							
P. M.	26	60	21	51	16							

OLD TYPE.

A. M.	23	65	20	50	17	}	+1	0.71	48.0	3
P. M.	26	67	21	52	15							
A. M.	23	63	20	51	18							
P. M.	26	65	21	51	14	}	0.90	50.0	3	
A. M.	23	62	20	50	15							
P. M.	26	63	21	48	14							
A. M.	23	62	20	49	10	}	0.98	51.0	5	2	
P. M.	26	62	21	52	13							
A. M.	23	63	20	52	18							
P. M.	26	66	21	52	17	}	1.07	48.0	8	1	
A. M.	23	64	20	54	12							
P. M.	26	65	21	50	12							
A. M.	23	67	20	53	15	}	0.98	51.0	5	2	
P. M.	26	66	21	52	19							
A. M.	23	63	20	54	12							
P. M.	26	65	21	51	14	}	0.90	50.0	3	
A. M.	23	65	20	52	15							
P. M.	26	69	21	50	12							
A. M.	23	67	20	52	18	}	0.90	50.0	3	
P. M.	26	69	21	50	17							
A. M.	23	63	20	49	16							
P. M.	26	63	21	48	16	}	0.90	50.0	3	
A. M.	23	61	20	50	12							
P. M.	26	60	21	51	11							
A. M.	23	62	20	50	13	}	2.15	60.0	15	2	
P. M.	26	60	21	51	16							
A. M.	25	60	22	55	25							
P. M.	29	66	24	59	20	}	2.15	60.0	15	2	
A. M.	25	62	22	57	20							
P. M.	29	65	24	59	20							

* Not reported.

† Trace.

RESULTS OF AIR ANALYSES IN CLOAK AND

Number of building and date.	Floor.	NUMBER OF EMPLOYEES.		Means of ventilation.	Means of illumination and heating, and number and location of pressing irons.	Place of test.
		Male.	Female.			
LOFT BUILDINGS,						
17; Feb. 28	6th	19	4	Windows: 4 N., 4 S., 4 W.	Gas; coal stoves; 4 gas irons near air shaft.	Center. At irons.
	5th	11	2	Windows: 4 E., 4 N., 5 S.	Gas; coal stoves; 3 gas irons near air shaft.	Center. At irons.
	5th	16	.....	Windows: 4 N., 4 S., 4 W.	(e) Gas; coal stoves; 4 gas irons near air shaft.	Center. At irons.
	3d	5	.....	Windows: 4 E.	(e) Gas; coal stoves; 1 gas iron.	Center.
18; Mar. 28	3d	10	2	Windows: 4 N., 2 S. on air shaft.	(f) Gas; 4 gas irons at side.	Center. *
	4th	8	2	Windows: 4 E., 4 S., 2 on air shaft.	Gas; 1 gas iron in rear, corner.	Center. *
	4th	7	2	Windows: 4 N., 2 on air shaft.	Gas; 2 gas irons in center.	Center.
	5th	11	6	Windows: 4 S., 3 W., 2 on air shaft.	(e) Gas; 2 gas irons in center.	Center.
	5th	7	3	Windows: 4 N., 2 on air shaft.	Gas; 2 gas irons.	Center.
	6th	10	1	Windows: 4 N., 3 E., 2 W., 2 on air shaft.	Gas; 2 gas irons near shaft.	Center.
19; Apr. 22	8th	8	2	Windows: 2 W., 8 side.	Gas; coal stoves 2 gas irons.	Center.
	7th	5	1	Windows: 2 E., 3 W., 3 side.	Gas; coal stoves; 1 gas iron.	Center. Rear.
	6th	9	2	Windows: 4 W., 5 side.	Gas; coal stoves; 2 gas irons.	Center. Rear.
20; Feb. 14	3d	6	2	Windows: 6 E., 2 W., 1 side; all equipped with ventilators.	Gas; coal stoves; 2 gas irons.	Center. *
	5th	10	3	Windows: 6 E., 6 W., 1 side; all equipped with ventilators.	Gas; coal stoves; 3 gas irons.	At irons. Center.
21; Mar. 15	4th	6	2	Windows: 2 N., 5 E.	Gas; steam; 2 gas irons at windows.	Center. Rear.
22; Mar. 15	3d	*	*	Windows: 4 N., 6 E., 1 S.	Gas; steam; 2 gas irons at windows.	Side. At irons.

(e) One gas jet burning. (f) 2 gas jets burning.

SUIT FACTORIES IN NEW YORK CITY, 1911—(Continued).

Time.	TEMPERATURE (FAHRENHEIT).		HUMIDITY.		RESULTS OF AIR ANALYSIS.					
	Out- doors.	In- doors.	Out- doors.	In- doors.	Parts of CO ₂ in 10,000 vol- umes.	Parts of CO in 10,000 vol- umes.	Parts of ammonia in 1,000,000 vol- umes.	Grams of oxidis- able organic matter in 1,000,000 liters of air.	Grams of solids in 1,000,000 liters of air.	Num- ber of colonies of bacteria per liter of air.	Num- ber of moulds per liter of air.

OLD TYPE—(Continued).

A. M.	24	51	20	44	18	} 1.5	.....	0.99	57.0	2	1
P. M.	27	54	22	48	21						
A. M.	24	52	20	46	15	} 1	.....	0.96	49.0	7	1
P. M.	27	59	22	51	20						
A. M.	24	56	20	44	13	} 1	.....	0.96	49.0	7	1
P. M.	27	60	22	47	12						
A. M.	24	56	20	46	14	} +1	.....	0.99	50.0	5	1
P. M.	27	60	22	46	19						
A. M.	24	57	20	46	17	} +1	.....	0.99	50.0	5	1
P. M.	27	63	22	49	20						
A. M.	24	62	20	46	10	} †	.....	1.00	50.0	5	2
P. M.	27	62	22	45	16						
A. M.	24	64	20	48	17	} †	.....	1.00	50.0	5	2
P. M.	27	63	22	48	26						
A. M.	24	55	20	48	18	} †	.....	1.00	50.0	5	2
P. M.	27	61	22	50	23						
A. M.	40	62	35	54	22	} 2	.....	2.05	64.0	4	1
P. M.	38	65	32	55	20						
A. M.	40	*	35	*	19	} 1	.....	0.70	57.0	3	1
P. M.	38	*	32	*	20						
A. M.	40	58	35	46	9	} 1	.....	0.70	57.0	3	1
P. M.	38	63	32	44	12						
A. M.	40	60	35	46	9	} 1.5	.....	1.40	60.0	3	1
P. M.	38	63	32	44	9						
A. M.	40	62	35	53	16	} 1.5	.....	1.40	60.0	3	1
P. M.	38	66	32	52	19						
A. M.	40	58	35	51	15	} 1.5	.....	1.20	58.0	3	1
P. M.	38	60	32	52	16						
A. M.	40	58	35	48	11	} .....	.....	0.85	61.0	3	1
P. M.	38	57	32	48	15						
A. M.	40	57	35	50	17	} 2	.....	1.20	70.0	4	1
P. M.	38	59	32	50	17						
A. M.	43	65	39	59	11	} 1	.....	0.89	52.0	2	1
P. M.	42	68	38	57	13						
A. M.	43	64	39	53	12	} -1	.....	0.76	50.0	2	1
P. M.	42	62	38	59	15						
A. M.	43	64	39	53	13	} .....	.....	0.80	50.0	2	1
P. M.	42	62	38	59	15						
A. M.	43	65	39	57	10	} .....	.....	0.80	50.0	2	1
P. M.	42	66	38	57	13						
A. M.	43	65	39	57	12	} .....	.....	0.80	50.0	2	1
P. M.	42	66	38	57	13						
A. M.	29	55	27	48	8	} .....	.....	0.65	56.0	3	1
P. M.	31	59	29	50	9						
A. M.	29	55	27	48	8	} 1	.....	0.74	51.0	1	2
P. M.	31	59	29	50	10						
A. M.	29	57	27	51	9	} 1	.....	0.74	51.0	1	2
P. M.	31	60	29	50	10						
A. M.	29	55	27	51	7	} †	.....	0.64	57.0	2	2
P. M.	31	57	29	52	9						
A. M.	44	65	42	52	10	} †	.....	0.64	57.0	2	2
P. M.	51	68	42	54	11						
A. M.	44	*	42	*	12	} †	.....	0.59	58.0	2	1
P. M.	51	*	42	*	12						
A. M.	44	65	42	55	7	} †	.....	0.59	58.0	2	1
P. M.	51	63	42	57	9						
A. M.	44	66	42	56	10	} †	.....	0.59	58.0	2	1
P. M.	51	66	42	57	11						

* Not reported.

† Trace.

RESULTS OF AIR ANALYSES IN CLOAK AND

Number of building and date.	Floor.	NUMBER OF EMPLOYEES.		Means of ventilation.	Means of illumination and heating, and number and location of pressing irons.	Place of test.
		Male.	Female.			
LOFT BUILDINGS,						
23; Apr. 10	3rd	8	10	Windows: 5 N.; 1 door.....	Gas; 4 gas irons at window.	Center.....
	2nd	2	5	Windows: 5 S.....	Gas; 3 gas irons at windows.	Center.....
	2nd	7	11	Windows: 6 S.....	(f) Gas; 3 gas irons in center.	Center.....
	2nd	4	8	Windows: 2 E., 4 N.; 1 door.....	Gas; 1 gas iron in center.	Center.....
	2nd	5	5	Windows: 2 N., 2 S.....	Gas; 2 gas irons near windows.	Center.....
24; Apr. 11	2nd	5	12	Windows: 4 N., 4 S.....	Gas; steam; 2 gas irons near windows.	Center.....
	3rd	4	1	Windows: 4 N., 4 S.....	Gas; steam; 1 gas iron.	Center.....
25; Apr. 11	2nd	5	10	Windows: 6 N., 2E., 3 S., 1 door.	Gas; coal stoves; 2 gas irons at windows.	Center.....
26; Apr. 12	2nd	5	10	Windows: 6 N., 4 S.....	Gas; coal stoves; 3 gas irons at windows.	Center.....
27; Mar. 3	3rd	19	5	Windows: 3 E., 3 W.....	(g) Gas; coal stoves; 6 gas irons near windows.	Center..... At irons.....
	4th	10	.....	Windows: 3 E., 3 W.....	(f) Gas; coal stoves; 2 gas irons near windows.	Rear..... Front.....
28; Mar. 3	2nd	25	10	Windows: 3 E. (louvre), 3 W.	(gg) Gas; 5 gas irons at windows.	Center..... At irons.....
	4th	8	3	Windows: 3 E., 3 W.....	(A) Gas; 1 gas iron at window.	Front..... Center.....
29; Feb. 10	2nd	21	5	Windows: 4 E., 4 W.; six equipped with ventilators.	Gas and electricity; steam heat; 4 gas irons near windows.	Rear..... Center.....
	6th	*	*	Windows: 4 E., 4 W.; six equipped with ventilators; 1 skylight.	Gas and electricity; steam heat.	Rear..... Center.....
	4th	19	5	Windows: 4 E., 4 W.; six equipped with ventilators.	(hh) Gas and electricity; steam heat; 4 gas irons near windows.	Rear..... Center.....
	5th	10	30	Windows: 4 E., 4 W.; six equipped with ventilators.	Gas and electricity; steam heat.	Rear..... Center.....

(f) 2 gas jets burning.

(g) 9 gas jets burning.

(gg) 6 gas jets and one gas cluster burning.

SUIT FACTORIES IN NEW YORK CITY, 1911—(Continued).

Time.	TEMPERATURE (FAHRENHEIT).		PERCENT HUMIDITY.		RESULTS OF AIR ANALYSIS.						
	Out-doors.	In-doors.	Out-doors.	In-doors.	Parts of CO ₂ in 10,000 vol-umes.	Parts of CO in 10,000 vol-umes.	Parts of ammonia in 1,000,000 vol-umes.	Grams of oxidiz-able organic matter in 1,000,000 liters of air.	Grams of solids in 1,000,000 liters of air.	Num-ber of colonies of bacteria per liter of air.	Num-ber of moulds per liter of air.

OLD TYPE—(Continued).

A. M.	50	62	39	56	11						
P. M.	54	63	33	55	15	†	.....	0.70	61.0	2	2
A. M.	50	60	39	57	9						
P. M.	54	61	33	57	11	†	.....	0.60	65.0	3	1
A. M.	50	62	39	58	10						
P. M.	54	62	33	58	14	†	.....	0.60	63.0	2	3
A. M.	50	61	39	54	9						
P. M.	54	64	33	57	11	†	.....	0.66	61.0	.....	.....
A. M.	50	59	39	52	9						
P. M.	54	61	33	53	9	†	.....	0.66	48.0	2	1
A. M.	48	63	40	55	10						
P. M.	49	67	43	58	9	†	.....	0.59	52.0	2	1
A. M.	48	62	40	49	9						
P. M.	49	62	43	50	9	†	.....	0.57	50.0	2	1
A. M.	48	62	40	50	9						
P. M.	49	61	43	50	10	†	.....	0.57	60.0	2	4
A. M.	45	61	40	50	9						
P. M.	48	64	43	59	10	†	.....	0.54	49.0	2	3
A. M.	39	64	35	55	10						
P. M.	45	68	39	58	15	+1	.....	0.61	46.1	1	1
A. M.	39	•	35	•	15						
P. M.	45	•	39	•	•						
A. M.	39	59	35	53	16						
P. M.	45	63	39	54	19	1	.....	0.57	39.5	1	1
A. M.	39	•	35	•	15						
P. M.	45	•	39	•	18						
A. M.	39	63	35	59	20						
P. M.	45	65	39	60	25	2	.....	3.00	69.0	4	1
A. M.	39	61	35	54	24						
P. M.	45	64	39	58	15						
A. M.	39	60	35	54	9						
P. M.	45	63	39	55	12	†	.....	0.86	45.0	2	.....
A. M.	39	•	35	•	11						
P. M.	45	•	39	•	12						
A. M.	•	58	•	51	20						
P. M.	•	61	•	50	19	1	.....	1.57	49.0	3	1
A. M.	•	59	•	52	22						
P. M.	•	59	•	52	21						
A. M.	•	59	•	51	11						
P. M.	•	58	•	48	11	.....	.....	0.65	50.0	2	1
A. M.	•	59	•	52	12						
P. M.	•	59	•	53	10						
A. M.	•	60	•	51	14						
P. M.	•	59	•	52	17	1	.....	0.88	50.0	2	1
A. M.	•	60	•	51	15						
P. M.	•	60	•	52	19						
A. M.	•	60	•	55	17						
P. M.	•	62	•	56	20						
A. M.	•	61	•	55	16						
P. M.	•	62	•	56	18	.....	.....	0.97	59.0	3	.....

(A) 1 gas mantle burning. (AA) 1 gas jet burning. *Not reported. † Trace.

RESULTS OF AIR ANALYSES IN CLOAK AND

Number of building and date.	Floor.	NUMBER OF EMPLOYEES.		Means of ventilation.	Means of illumination and heating, and number and location of pressing irons.	Place of test.
		Male.	Female.			

LOFT BUILDINGS,

30; Apr. 5	6th	17	5	Windows: 3 N., 3 S., one skylight.	(f) Gas; coal stoves; 4 gas irons near windows.	Front.....
						Center.....
31; Mar. 27	3rd	5	2	Windows: 3 N., 2 S.; one 30 inch exhaust fan in front window; ventilators in rear.	(j) Gas; 2 gas irons in center.	Center.....
						Rear.....
	4th	11	5	Windows: 3 N., 2 S.; one 30-inch exhaust fan in front window; ventilators in rear.	(k) Gas; 1 gas iron.	Center.....
						Rear.....
5th	17	8	Windows: 3 N., 2 S.; duct from exhaust fan to center of loft; ventilators: 2 front, 3 rear.	(l) Gas; 7 gas irons in center.	Center.....	
					Front.....	

LOFT BUILDINGS, CON

32; Apr. 7	3rd	6	1	Windows: 3 N., 3 S.....	(m) Gas and electricity; 2 gas irons near windows.	Center.....
						Front.....
	4th	7	..	Windows: 3 S.....	Gas; 2 gas irons near windows.	Center.....
33; Mar. 29	4th	6	4	Windows: 3 N.....	(n) Gas; 2 gas irons near windows.	Center.....
						Rear.....
	5th	18	3	Windows: 4 N., 4 S.; small disc exhaust fan, front and rear windows.	Gas; coal stoves; 1 gas iron.	Center.....
						Rear.....
	3rd	13	3	Windows: 4 N., 4 S.; small disc exhaust fan, front and rear windows.	Gas; coal stoves; 2 gas irons.	Center.....
Front.....						
2nd	8	1	Windows: 3 N., 1 side.....	(o) Gas; coal stoves; 1 gas iron.	Center.....	
34; Mar. 29	1st	11	2	Windows: 1 N., 3 E., 2 W., doors: 1 N.	(p) Gas and electricity; 2 gas irons near windows.	Center.....
						Rear.....
						Center.....

(i) 13 gas jets burning.

(j) 5 gas jets burning.

(k) 4 gas jets burning.

(l) 3 gas jets burning.

(p) 6 electric lamps and 2 gas jets burning.

SUIT FACTORIES IN NEW YORK CITY, 1911 — (Continued).

Time.	TEMPERATURE (FAHRENHEIT).		HUMIDITY.		RESULTS OF AIR ANALYSIS.					
	Out-doors.	In-doors.	Out-doors.	In-doors.	Parts of CO ₂ in 10,000 vol-umes.	Parts of CO in 10,000 vol-umes.	Parts of ammonia in 1,000,000 vol-umes.	Grams of oxidiz-able organic matter in 1,000,000 liters of air.	Grams of solids in 1,000,000 liters of air.	Number of colonies of bacteria per liter of air.

OLD TYPE—(Concluded).

A. M.	47	61	47	56	18	-1	1.02	67.0	3
P. M.	57	62	56	52	23						
A. M.	47	60	47	54	20						
P. M.	57	63	56	54	27	↑
A. M.	50	59	48	52	10						
P. M.	52	58	51	49	10						
A. M.	50	58	48	51	9						
P. M.	52	61	51	52	10						
A. M.	50	60	48	53	9						
P. M.	52	60	51	53	\$11						
A. M.	50	59	48	53	110						
P. M.	52	60	51	52	11						
A. M.	50	60	48	56	9						
P. M.	52	61	51	56	14	2	0.50	50.0	1
A. M.	50	59	48	54	9						
P. M.	52	61	51	55	12						

VERTED TENEMENT HOUSES.

A. M.	53	63	46	57	18	1.5	1.15	55.0	3	1
P. M.	55	65	47	57	\$14						
A. M.	53	60	46	56	110						
P. M.	55	63	47	58	17	2	1.20	50.0	3	1
A. M.	53	68	46	56	19						
P. M.	55	69	47	59	\$25						
A. M.	53	65	46	50	114						
P. M.	55	68	47	51	20						
A. M.	53	74	46	60	16						
P. M.	55	73	47	59	\$18						
A. M.	53	70	46	56	112						
P. M.	55	74	47	60	19						
A. M.	42	58	39	53	17							↑	.....	1.40	60.0	3	1
P. M.	48	60	46	53	20						
A. M.	42	56	39	50	18	+1
P. M.	48	60	46	53	\$23						
A. M.	42	57	39	49	112						
P. M.	48	59	46	54	20	+1	1.95	50.0	4	2
A. M.	42	55	39	49	14						
P. M.	48	57	46	49	\$15						
A. M.	42	54	39	48	110						
P. M.	48	56	46	49	16						
A. M.	42	56	39	49	12						
P. M.	48	56	46	49	\$11						
A. M.	42	55	39	47	110						
P. M.	48	58	46	48	12						
A. M.	42	69	39	46	25							.....	.....	1.40	61.0	5	3
P. M.	48	60	46	48	\$15						
A. M.	42	60	39	48	18						
P. M.	48	59	46	49	19						
A. M.	42	*	39	*	117						
P. M.	48	59	46	49	23						

(m) 1 gas jet and 1 electric lamp burning. (n) 1 gas jet and 1 gas cluster burning. (o) 1 gas jet burning.
 † Trace. *Not repor.ed. § A. M. † P. M.

RESULTS OF AIR ANALYSES IN CLOAK AND

Number of building and date.	Floor.	NUMBER OF EMPLOYEES.		Means of ventilation.	Means of illumination and heating, and number and location of pressing irons.	Place of test.
		Male.	Female.			
[LOFT BUILDINGS, CONVERTED						
35; Mar. 24	4th	30	6	Windows: 3 E., 3 W.	Gas; coal stoves; 6 gas irons near windows.	Rear..... Center.....
	3rd	2	4	Windows: 3 E., 3 W.	Gas; coal stoves.	Rear..... Center.....
	2nd	3	.....	Windows: 3 E., 3 W.	Gas; coal stoves.	Rear..... Center.....
36; Mar. 24	5th	21	7	Windows: 3 E., 5 W.	Gas; coal stoves; 1 gas iron near window.	Front..... Center.....
	4th	9	.....	Windows: 3 W.	Gas; coal stoves; 2 gas irons near center.	Center.....
37; Apr. 7	3rd	10	3	Windows: 3 E., 3 W.	Gas; coal stoves; 2 gas irons near windows	Center.....
	4th	5	1	Windows: 3 W.	Gas; coal stoves; 2 gas irons near center.	Center.....
	5th	6	3	Windows: 3 W.	Gas; coal stoves; 1 gas iron.	Center.....
	3rd	8	2	Windows: 1 N.	Gas; gas stoves; 2 gas irons.	Front..... Rear.....
CELLAR						
39; Apr. 3	.....	6	2	Windows: 3 S.; 4 transoms N. to street.	(g) Gas; 2 gas irons at windows.	Front..... Rear.....
	40; Apr. 3	11	2	Windows: 2 S., 2 vault lights, front.	(r) Gas; gas stoves; 2 gas irons at windows.	Rear at irons.. Front.....
41; Apr. 3	.....	14	.....	Windows: 1 N.; 1 vault light, front; 5 wall flues to roof..	(g) Gas; 2 gas irons at window.	Rear at irons. Front at sewers.....

(g) 6 gas jets burning. (r) 2 gas mantles and 1 cluster burning.

SUIT FACTORIES IN NEW YORK CITY, 1911 — (Concluded).

Time.	TEMPERATURE (FAHRENHEIT).		HUMIDITY.		RESULTS OF AIR ANALYSIS.																		
	Out-doors.	In-doors.	Out-doors.	In-doors.	Parts of CO ₂ in 10,000 vol-umes.	Parts of CO in 10,000 vol-umes.	Parts of ammonia in 1,000,000 vol-umes.	Grams of oxidis-able organic matter in 1,000,000 liters of air.	Grams of solids in 1,000,000 liters of air.	Num-ber of colonies of bacteria per liter of air.	Num-ber of moulds per liter of air.												
TENEMENT HOUSES—(Concluded).																							
A. M.	28	65	24	62	18	} +1	2.04	60.0	4	1												
P. M.	32	63	27	50	16																		
A. M.	28	*	24	*	28																		
P. M.	32	*	27	*	29																		
A. M.	28	62	24	49	9																		
P. M.	32	61	27	50	9																		
A. M.	28	*	24	*	9																		
P. M.	32	*	27	*	10																		
A. M.	28	61	24	48	10																		
P. M.	32	61	27	47	9																		
A. M.	28	*	24	*	10	} +1	2.00	58.0	3	1												
P. M.	32	65	27	57	\$19																		
A. M.	28	62	24	54	12																		
P. M.	32	64	27	55	15																		
A. M.	53	66	*	61	19							} 1.5	2.08	61.0	4	1						
P. M.	55	63	47	56	\$19																		
A. M.	53	66	*	61	\$12																		
P. M.	55	63	47	56	20																		
A. M.	53	68	*	60	21													} 1	1.50	48.0	3	1
P. M.	55	65	47	58	20																		
A. M.	53	63	*	57	16																		
P. M.	55	65	47	58	16																		
A. M.	53	68	*	58	9	} 1.5	1.28	45.0	3	1												
P. M.	55	*	47	*	14																		
A. M.	53	71	*	63	10	} -1	0.90	50.0	2	1												
P. M.	55	70	47	64	13																		
A. M.	43	65	40	56	13	} 1.5	0.99	51.0	3	1												
P. M.	42	65	38	59	\$14																		
A. M.	43	63	40	55	\$10																		
P. M.	42	65	38	57	14																		
SHOPS.																							
A. M.	35	68	36	52	16	} 2	0.98	59.0	3	2												
P. M.	41	66	35	53	**12																		
A. M.	35	68	36	53	14																		
P. M.	41	65	35	53	18																		
A. M.	35	65	36	50	25	} +2	1.90	50.0	4	3												
P. M.	41	66	35	51	23																		
A. M.	35	63	36	51	18																		
P. M.	41	65	35	51	14																		
A. M.	35	63	36	51	16	} 2	1.45	42.0	4	5												
P. M.	41	62	35	53	19																		
A. M.	35	60	36	51	12																		
P. M.	41	60	35	53	13																		

(*) 1 gas jet burning. ** Noon. * Not reported. † A. M. ‡ P. M.

RESULTS OF AIR ANALYSES

No. of plant.	Date and weather.	Process at place of test.	NUMBER OF EMPLOYEES.		Number of windows, doors and skylights.
			Male.	Female.	
MANUFACTURE OF					
1	May 9; clear	Cutting.....	4	25	Windows: 3 E., 6 S., 6 W.....
		Carrotting.....	4		do
		Shearing.....	8		do
		Blowing.....	2		do
2	May 19; clear	Sorting.....	50		Windows: 20
		Cutting.....	6	15	do
		Shearing.....	40		do
		Carrotting.....	8		do
3	June 29; clear	Cutting.....	11	22	Windows and skylights: 4.....
		Blowing and brushing.	7	2	Windows: 12 E., 14 W.....
4	June 29; cloudy	Cutting.....	7	7	Windows: 10.....
		Carrotting.....	6		Windows: 19.....
5	June 21; clear	Carrotting.....	10		Windows: 4.....
		Cutting.....	20	8	Windows: 13; skylights: 6.....
6	June 29; clear	Carrotting.....	10		Windows: 25; skylights: 10.....
7	July 20; clear	Carrotting.....	3		do
		Pouncing.....	11		Windows: 21.....
		Blowing.....	5		Windows: 38.....
MANUFACTURER					
		Forming.....	42		Windows: 31; skylights: 19.....
		Dyeing.....	10		Windows: 8 front, 1 side.....
		Finishing (1st)...	41		Windows: 24 side, 19 on court.....
		Finishing (2d)...	60		Windows: 17 N., 18 S., 3 rear.....
		Finishing (3d)...	22		Windows: 27.....
8	June 29; clear	Shaving.....	6		Windows: 10; doors: 2.....
		Finishing.....	19		do
9	July 6; clear	Trimming.....		46	Windows: 27.....
		Finishing.....	14		do
10	April 28; clear	Finishing.....	24		Windows: 18 front, 40 side, 12 rear...
11	Sept. 16; cloudy	Finishing.....	12		Windows: 5 side, 8 rear.....
12	Sept. 16; clear	Finishing.....	10	9	Windows: 14 side, 2 rear.....
13	Sept. 30; clear	Finishing.....	40	30	Windows: 21 front, 42 side, 16 rear...
14	Sept. 30; clear	Finishing.....	16		Windows: 9 front, 6 rear.....
15	April 21; clear	Finishing.....	16	10	Windows: 9 front, 17 side, 4 rear.....
16	Sept. 7; clear	Finishing.....	14		Windows: 4 front, 5 side, 3 rear.....
		Trimming.....		6	Windows: 3 front, 3 rear.....
17	Sept. 7; cloudy	Finishing.....	12		Windows: 2 front, 3 rear; skylights: 3..
		Trimming.....	1	9	Windows: 2 front, 2 rear.....
13	Sept. 7; cloudy	Trimming.....	3	7	*.....

* Not reported.

IN FELT HAT INDUSTRY.

MEANS OF—			Kind of floors.	Machines and appliances in use.
Illumination.	Heating.	Ventilation.		
HATTERS' FUR.				
Electricity	Steam	Natural	Wood	
"	"	"	"	4 machines.
"	"	"	"	
"	"	Patent electric fan in window.	"	
"	"	Natural	"	6 machines.
"	"	Exhaust fan	"	
"	"	36 inch exhaust fan	Cement	
Gas	"	Exhaust system	Wood	3 brushing machines, 2 blowing machines
"	"	Exhaust system	"	
Gas	Steam	Natural	Wood	
Electricity	"	"	Cement	Carrotting machines.
Gas	"	"	"	
"	"	"	"	
"	From ovens	"	"	
"	"	"	"	
"	Steam	"	Wood	10 machines.
"	"	"	"	11 blowing machines, 2 devils.
OF HATS.				
Gas	Steam	Natural	Wood	18 forming machines.
"	"	"	"	9 dyeing tubs.
"	"	"	"	30 gas irons, 29 gas machines, 14 steamers.
"	"	30 inch exhaust fan	"	31 gas irons, 3 steamers.
"	"	Natural	"	12 gas irons, 11 steamers, 20 gas machines, 3 singers.
Electricity	"	"	"	1 machine.
"	"	Exhaust fan	"	12 pouncing machines.
"	"	"	"	
"	"	Natural	"	10 gas irons, 2 singers.
Gas	"	"	"	12 machines using gas.
"	"	"	"	1 drying oven, 1 steamer, 6 lathes, 1 singer.
"	"	"	Wood and cement	5 steamers, 5 lathes, 5 gas irons, 1 gas singer.
Electricity	"	"	Cement	4 drying ovens, 7 bakers, 15 gas irons, 2 singers, 20 lathes.
as	"	"	Wood	1 steamer, 8 gas irons, 1 singer.
"	"	"	"	12 gas stoves, 1 steamer.
"	"	"	"	6 gas irons, 1 steamer, 1 steam boiler.
"	"	"	"	1 steamer, 8 gas irons.
"	"	"	"	1 steamer, 1 steam boiler, 2 steam bakers.

RESULTS OF AIR ANALYSES

No. of plant.	Process at place of test.	TEMPERATURE (FAHRENHEIT).		HUMIDITY.		RESULTS OF				
		Out-doors.	In-doors.	Out-doors.	In-doors.	Parts of CO ₂ in 10,000 vol-umes.	Parts of CO in 10,000 vol-umes.	Parts of ammonia in 1,000,000 vol-umes.	Grams of oxidisable organic matter in 1,000,000 liters of air.	Grams of solids in 1,000,000 liters of air.
MANUFACTURE OF										
1	Cutting	60	67	60	65	10		1	3.50	25.70
	Carrotting	60	63	60	67				0.89	20.00
	Shearing	63	65	60	60	7			4.10	46.50
	Blowing	63	65	60	60				5.10	47.00
2	Sorting	70	70	70	60	9		†	2.81	24.00
	Cutting	70	72	70	55	9		2	2.17	35.00
	Shearing	73	72	70	55	9		1	3.00	39.10
	Carrotting	73	79	70	61	12		1	1.72	31.00
3	Cutting	78	80	54	60	8		1	3.00	28.30
	Blowing and brushing	78	79	52	62				3.20	25.30
4	Cutting	70	70	55	65	10		1	2.50	29.40
	Carrotting	70	70	55	68	12			0.96	19.00
5	Carrotting	70	79	53	66	6			2.50	32.00
	Cutting	70	76	53	60	7			4.50	45.10
6	Carrotting	78	81	54	69				1.64	30.00
7	Carrotting	69	72	55	61				1.89	39.00
	Pouncing	69	72	55	78	14		1	5.12	50.00
	Blowing	69	80	55	80	12		2	5.30	31.10
MANUFACTURE										
	Forming	69	75	55	90	10		1	9.32	29.40
	Dyeing	69	80	55	91					
	Finishing (1st) ..	70	85	55	80	22	+4	2	5.50	42.80
	Finishing (2nd) ..	70	75	55	80	23	4	2	3.40	31.80
	Finishing (3rd) ..	70	82	55	80	21	+3	2	4.12	72.00
8	Shaving	74	77	40	40	12			0.84	18.30
	Finishing	74	75	40	40	9			2.10	20.10
9	Trimming	84	82	40	50	7			1.10	36.40
	Finishing	84	92	38	50	8	†	1	1.40	30.25
10	Finishing	75	82	55	75	15	3	1	3.20	45.10
11	Finishing	66	84	90	80	17	2	1	2.70	40.10
12	Finishing	70	80	45	81	16	2	1	1.70	20.10
13	Finishing	50	70	30	35	10	1		0.96	21.30
14	Finishing	50	75	30	80	16	3	1	2.30	30.00
15	Finishing	47	68	40	50	19	3	2	3.20	44.00
16	Finishing	70	85	50	70	14	+2	2	4.31	80.20
	Trimming	70	74	50	61	9		1	0.52	31.00
17	Finishing	70	84	55	81	19	2	1	1.07	31.05
	Trimming	70	80	55	80	18		1	0.42	20.00
18	Trimming	70	80	60	70	12		1	0.50	17.60

† Trace.

IN FELT HAT INDUSTRY.—(Continued).

AIR ANALYSIS.				Fumes or odors.	Remarks.
Number of colonies of bacteria per liter of air.	Number of moulds per liter of air.	Number of particles of dust per liter of air.	Mili-grams of mercury in 1,000,000 liters of air.		

HATTERS' FUR.

15	4	1,700 (mostly hair)	3.0		Windows open.
7	1		4.0	Acid	Windows open.
10	2	900		Acid	Windows open.
12	2	1,605	2.6		Windows open.
28	2	260 (hairs)		Naptha	Bales of skins opened and sorted; windows open.
6	2	166 (hairs)	2.6		Windows open.
9	1	1,500			Machines connected with exhaust system; windows open.
16	3		14.0	Acid	Windows open.
20	4	1,900	†		Windows open.
18	3	1,850			Brushing machines connected with exhaust fan.
17	.....	1,005 (141 hairs)	†		Windows partly open.
4	1	174	†	Skins	
12	4		8.0	Acid	Floors dirty; windows partly open.
23	2	2,103	3.1		Floors dirty.
15	3		15.0	Acid	Drying ovens hooded.
20	5	174	16.0	Acid	Drying ovens hooded.
26	3				No exhaust system.
33	4	3,005	4.0		4 gas jets burning.

OF HATS.

14	2		†	Dye	
.....	2		†	Gas and oil	
34	1	1,303 (mostly hair)	†	do	
31	1	1,300 (mostly hair)	†	do	
17	3	2,307	†	Gas	Windows open.
2	1	424 (96 hairs)			Machine connected with exhaust fan.
8	3	824 (37 hairs)			Machines connected with exhaust fans
7	2	1,204 (54 hairs)			Windows open; dry and dusty; strong south wind.
15	5	1,001		Oil	Singeing machines hooded; windows open.
6	.....	1,007 (mostly hair)		Oil	Twenty windows open.
13	3	938 (85 hairs)		Oil and wax	Windows open; floor dirty.
8	2	960		Oil and wax	Windows open; steamers not hooded.
4	.....	30		Oil	Fifteen windows partly open; strong wind.
5	2	125	†	Oil	Windows open; floors dirty.
4	2	200	†	Oil	Windows open; floors dirty.
15	15	110 (70 hairs)		Paraffin	Windows open; water-closets filthy; place dirty.
5	6	51 (5 hairs)			Windows open; place dirty.
6	2	69		Oil	Windows and skylights open; walls dirty.
4	2	30 (10 hairs)			Windows partly open; steamer not hooded.
5	2	32			

RESULTS OF AIR ANALYSES

No. of plant.	Date and weather.	Process at place of test.	NUMBERS OF EMPLOYEES.		Number of windows, doors and skylights.
			Male.	Female.	
MANUFACTURE OF					
19	Sept. 11; cloudy.....	Finishing.....	24	15	Windows: 9 front, 18 side.....
		Finishing and trimming.	23	15	Windows: 7 front.....
20	Sept. 12; cloudy.....	Finishing.....	15	.....	Windows: 8 front, 6 rear.....
		Soft hat finishing and trimming.	14	.....	do
21	Sept. 14; cloudy.....	Finishing.....	6	18	Windows: 9 side, 3 front, 1 on shaft....
		Finishing.....	6	5	Windows: 7 side, 4 front.....
22	Sept. 15; cloudy.....	Finishing.....	10	5	Windows: 4 front, 3 rear; skylights: 3..
23	Sept. 15; rainy.....	Curling and trimming.	3	.....	Windows: 3 front, 3 rear.....
		Curling.....	3	15	Windows: 3 side.....
		Pressing.....	2	.....	do
		Finishing.....	18	.....	Windows: 9 front, 16 rear, 1 side.....
24	Sept. 16; clear.....	Finishing.....	7	.....	Windows: 9 side, 2 rear.....
25	Sept. 21; clear.....	Finishing.....	3	4	Windows: 3 front, 10 side, 4 rear.....
26	Sept. 22; clear.....	Trimming.....	4	13	Windows: 1 front, 11 side.....
		Finishing.....	13	.....	Windows: 1 front, 11 side; roof-scuttles: 1
27	Sept. 26; clear.....	Finishing.....	2	3	Windows: 4 front, 4 rear.....
28	Sept. 28; clear.....	Finishing.....	9	6	Windows: 5 front, 14 side, 2 rear; skylights: 1.
29	Sept. 4 and 5; clear.....	Finishing (1)....	44	.....	Windows: 9 E., 9 S.; skylights: 4.....
		Finishing (2)....	20	.....	Windows: 4 N., 5 S., 11 W.....
		Blowing.....	4	6	Windows: 2; doors: 1.....
		Pouncing.....	12	.....	Windows: 7 N., 4 E., 6 S.....

IN FELT HAT INDUSTRY.—(Continued).

MEANS OF—			Kind of floors.	Machines and appliances in use.
Illumination.	Heating.	Ventilation.		
HATS — (Concluded).				
Electricity...	Steam.....	Natural.....	Wood.....	12 finishing pots, 1 steamer.
"	"	"	"	14 lathes, 1 steamer, 1 gas singer.
"	"	"	"	5 gas ironers, 1 steamer.
Gas.....	"	"	"	2 gas ovens, 5 lathes, 2 steam pots.
Gas.....	"	1 14-inch disc fan...	"	1 steamer.
"	"	Natural.....	"	1 gas machine, 3 bakers.
"	"	"	"	3 bakers, 3 steamers.
"	"	"	"	1 oven.
"	"	"	"	17 lathes, 3 singers, steam tables.
"	"	"	"	1 steamer, 1 baker, 6 gas irons, 1 singer.
"	"	"	"	1 steamer, 3 bakers, 1 steam oven.
"	"	"	"	2 steam tables, 3 gas irons.
"	"	"	"	7 gas ironers, 1 steam boiler, 13 gas hand irons, 1 steamer, 1 singer, 1 baker.
"	"	"	"	1 steam boiler, 3 gas irons, 1 steamer, 1 baker.
"	"	"	"	4 bakers, 1 rim curler, 6 gas irons, 1 steamer, 1 rim pouncer.
"	"	30 inch exhaust fan..	"	24 gas ironing machines, 18 steam pressers, 6 rim pressers.
"	"	"	"	17 lathes, 28 steam pressers, 4 steam tables, 5 pouncing machines.
"	"	"	"	4 pouncing machines.
"	"	48 inch exhaust fan..	"	

RESULTS OF AIR ANALYSES

No. of plant.	Process at place of test.	TEMPERATURE (FAHRENHEIT).		HUMIDITY.		RESULTS OF				
		Out-doors.	In-doors.	Out-doors.	In-doors.	Parts of CO ₂ in 10,000 vol-umes.	Parts of CO in 10,000 vol-umes.	Parts of ammonia in 1,000,000 vol-umes.	Grams of oxidisable organic matter in 1,000,000 liters of air.	Grams of solids in 1,000,000 liters of air.
MANUFACTURE OF										
19	Finishing.....	67	80	69	83	.....	.....	.....	1.30	35.00
	Finishing and trimming.	67	80	78	85	.....	.....	.....	3.40	42.00
20	Finishing.....	64	82	87	75	15	2	1	2.30	35.50
	Soft hat finishing	70	83	79	79	16	2	1	3.00	32.10
	Soft hat trimming	70	73	79	60	9	.....	1	0.96	20.05
21	Finishing.....	60	77	50	68	14	1½	1	1.23	24.80
22	Finishing.....	61	80	72	74	16	.....	2	1.96	19.40
23	Curling and trimming.	63	78	90	70	14	1	1	0.85	24.30
	Curling.....	63	84	90	85	16	.....	1	1.65	32.40
	Pressing.....	63	80	90	80	19	1	1	0.96	20.00
	Finishing.....	63	85	90	85	21	2	1	3.40	47.90
24	Finishing.....	66	78	50	80	15	2½	2	1.40	41.30
25	Finishing.....	70	84	60	60	11	1	1	0.72	20.01
26	Trimming.....	73	74	53	70	9	+1	1	0.96	24.50
	Finishing.....	73	79	53	72	14	3	2	1.82	27.50
27	Finishing.....	71	68	50	55	9	1	1	0.75	18.40
28	Finishing.....	65	80	30	40	14	2	2	1.85	31.30
29	Finishing (1)....	74	82	40	70	22	+4	2	3.20	55.00
	Finishing (2)....	74	84	40	75	20	+4	2	4.40	40.40
	Blowing.....	75	82	43	70	9	.....	.....	5.20	29.70
	Pouncing.....	76	80	42	69	11	.....	.....	5.50	51.40

* No reported.

** Not determined.

IN FELT HAT INDUSTRY.— (Concluded).

AIR ANALYSIS.				Fumes or odors.	Remarks.
Number of colonies of bacteria per liter of air.	Number of moulds per liter of air.	Number of particles of dust per liter of air.	Milli-grams of mercury in 1,000,000 liters of air.		
8	3	40		Paraffin	Windows open.
17	4	80 (50 hairs)		Paraffin	Floor dirty.
16	5	256 (35 hairs)		Paraffin	Windows open; singer hooded.
16	4	200		Paraffin	Windows open.
8	4	**			Windows open.
5	5	190		Oil and wax	Windows open; steam pots without hoods.
20	3	180 (14 hairs)			Windows and skylights open; floors splintered.
8	7	50			Windows open.
17	7	85			Windows open.
5	1				Windows open.
27	3	1,100		Oil and wax	Windows open; singers not hooded; steam tables hooded.
9	6	760		Oil and wax	Windows open; singer not hooded.
6	6	120		Oil and wax	Windows open; steamer hooded; seventy thousand cubic feet of air per hour entering windows.
17	1	540			Windows open; gas irons not hooded; walls and floors dusty.
15	5	610			Windows open; floors dirty.
5		114			Windows open; baker not hooded.
11	4	455		Oil and wax	Windows partly open; steamer not hooded; rim pouncer not hooded.
14	5	1,100 (90 hairs)	†	Paraffin and oil	Floor dirty; rim pressers not connected with exhaust system.
18	4	800	†	Paraffin and oil	Floors dirty.
15	4	* (172 hairs)			Floors dirty.
8	5	1,400 (fine hairs)			Machines not connected with exhaust system.

(C) REPORT OF THE TUNNEL INSPECTOR.

HON. JOHN WILLIAMS,

Commissioner of Labor, Albany, N. Y.

SIR: I hereby submit my annual report as tunnel inspector for the fiscal year ending September 30, 1911.

Differing from previous years, the work was spread through the State, necessitating much traveling, and was much heavier than usual. In so far as was possible, a visit was made to each tunnel once in three months, but due to the large number of tunnels and their scattered location, all were not visited with this regularity. Fifty-nine tunnels were in the course of construction, together with five caisson contracts, having 184 pneumatic caissons. Two of the fifty-nine tunnels were operated in sections under pneumatic pressure, but the pressure was very light, seldom reaching fifteen pounds to the square inch above normal, and yet, in spite of all medical examinations and precautions, two reported deaths, due directly to air pressure, were received from one of these tunnels. These were extraordinary cases, yet they show the danger of the work, at even so low a pressure.

All of the pneumatic caisson work was divided between two contracting firms who make a specialty of this class of work. Realizing the dangers of the work, every perceivable precaution was taken, and very few accidents were reported from this class of work.

Aside from the general inspection of locks, valves, etc., the main feature in this work is the hours of labor in air pressure. Work in caissons and work in tunnels in air pressure are two entirely different matters. In the former, due to the small air chamber, the fluctuations in pressure are great — quite frequently the pressure drops in a few seconds. This does not occur so rapidly in tunnels, for there the air chamber is much larger. In caissons, due to the small space and small air chamber, the temperature is frequently high and invariably much higher than in tunnels carried on under air pressure. For these reasons, mainly, the work in pneumatic caissons is carried on under shorter hours than set down by the State laws, which were framed with special regard to tunnel work under air pressure.

In the excavation of tunnels, three general methods were employed, the top heading and bench method prevailing; several contractors holing through the entire tunnel with a top heading and excavating the bench afterwards. In one tunnel, the bottom drift and stoping method was employed. This last method resembles the manner of excavation used in the Alpine tunnels of Europe and caused considerable controversy among American engineers. These methods, of course, were the outcome of several reasons, mainly cost and the nature of the ground, but of the three methods, holing through the tunnel with a top heading and then taking out the bench, is, in my opinion, the safest for the workers. All other conditions being equal, loose rock falling in a small heading will actually not cause as much injury as falling through a larger distance and furthermore, can be more easily detected in a small top heading. So the final roof of the tunnel will be more solid and less liable to falling rock when the bench is taken out. Furthermore, after the top headings are holed through, excellent natural ventilation is obtained while the remaining excavation of the bench is carried on.

The majority of the heavy tunnel work is along the route of the Catskill Aqueduct for the New York City water supply. The most interesting and heaviest piece of tunnel work is that section known as the Hudson River Syphon, the tunnel crossing under the Hudson River at Storm King mountain.

This tunnel is carried on from the two deepest shafts in the State. These shafts are located on the east and west banks of the river at this point and are 1,140 feet deep. The rock in the tunnel and also in the shafts at this depth is of a peculiar character. Although apparently solid and firm, it will, without notice, shoot out from the roof and sides of the tunnel with a popping noise like a gun shot, making a most dangerous place to work in. This has been overcome by putting in steel roof and sides with sheet steel lagging and carried as near to the heading as possible. This steel timbering, as it is called, will remain when the tunnel is being lined with concrete, differing from the wood timbering in that respect, and making work safer while the concreting is going on. At this depth several seams of water, under an enormous pressure, were encountered. Work in the headings had to be suspended because of this water on several occasions.

A concrete bulkhead was built about 100 yards from the heading with an opening large enough to allow a muck car to pass through. A large iron door was fastened to the bulkhead with proper reinforcing bracers, so that in the event of a serious inrush of water, the workers could find safety behind the bulkhead and only that part of the tunnel between the bulkhead and the heading would be flooded. A special power plant had to be erected in order to overcome these large seams of water. These seams were grouted by means of hydraulic pressure, averaging 750 pounds to the square inch.

In accordance with your ruling at the beginning of this year, subway construction in New York City was regarded as tunnel construction and duly inspected. This class of work at present is quite large, employing on an average of 3,000 men, but will be very much larger during the coming year. Here, I find the greatest number of accidents occur from falling objects in general — tipping buckets, falling timbers, falling tools, etc.

With a view to eliminating such accidents, as far as possible, I have ordered proper coverings and properly guarded work places, and orders along that general line, and in several cases, safety hooks where open hooks were in use. This latter is of paramount importance in subway work, and I would suggest an addition to our rules requiring that no open hooks shall be used with a bucket in hoisting, safety hooks only to be employed. This is also absolutely necessary in shaft sinking, and I have frequently seen open hooks in use in this kind of work.

Sanitation, especially in subway work, is another factor. In my opinion, an article-covering dry closets should also be added to our existing laws.

During the past year, work was carried on from 35 shafts, where the signals for hoisting and lowering of cages differed with each contract. During the coming year, shaft work will be even more extensive and a uniform code of signals, in my opinion, is absolutely necessary. A committee appointed by the American Mining Congress at Denver, Col., in November, 1906, to frame uniform mining laws for the prevention of mine accidents, has a rule in their laws containing a uniform signal code. I would suggest the adoption of this code, permitting special signals in addition to those in the code to be used, providing they do not in-

terfere with it in any way — to wit: One bell, hoist (when engine is at rest); one bell, stop (when engine is in motion); two bells, lower; three bells, men on cage about to ascend or descend.

Ladder-ways in shafts are a subject which is not directly touched upon in our laws. In all our shafts we have ladder-ways after the cages are put in and the headings are turned, but while sinking the shaft, I doubt whether or not they can be ordered, and when the shaft is several hundred feet in depth (as all new shafts in New York City will be during the coming year) it is absolutely essential that ladder-ways be provided and a rule should be inserted to this effect. According to a Legislative Act which went into effect October 1st, 1910, all accidents occurring on construction or engineering work of any kind, should be reported to the Department, and a record of such accidents reported shall be kept by the employer in his office, in form prescribed by the Commissioner of Labor.

I would suggest that an extra column be added to the sample heading furnished to employers, headed: "Cause of Accidents." When inspecting the book in an employer's office, if this column were added, it would aid considerably in making changes and giving orders, with the object in view of lessening accidents of a like nature.

Due to the new accident law, the number of accidents is much greater than in any years past. Formerly, only those accidents which caused cessation of work for five hours or more, were reported, so this year, 3,289 accidents, of which 40 were fatal, were reported. In so far as was possible, all fatalities were investigated immediately after receipt of such information.

During the year 65 inspections and 119 observations were made. The number of men employed in this class of construction work, by quarters, was as follows: First quarter, 8,931; second quarter, 8,498; third quarter, 8,425; fourth quarter, 8,620.

It pleases me to state that most of the contractors were very willing to abide by all suggestions made, and to render whatever aid they could to assist me in my inspection.

Respectfully submitted,

(Signed) GUSTAV WERNER,

Tunnel Inspector.

STATISTICS OF TUNNELS INSPECTED, 1911

LOCATION AND KIND OF WORK.	Owner.	Contractor or constructor.	Number of tunnels or sections.	Number of employees.†	NUMBER OF—	
					Inspections.	Observations.
WORK OTHER THAN NEW YORK CITY AQUEDUCT.						
<i>Buffalo.</i>						
Pipe line.....	City of Buffalo.....	Eastern Concrete Steel Co.....	2	35		1
Water conduit.....	City of Buffalo.....	Buffalo Dredging Co.....	2	190	1	1
Water intake.....	City of Buffalo.....	Buffalo Dredging Co.....	1	200		2
<i>Canaan.</i>						
Railroad.....	Boston and Albany R. R. Co.....	I. L. McCord.....	1	30	1	
<i>Kingston.</i>						
Sewer.....	City of New York...	King, Rice & Ganey.....	a1	88	2	2
<i>Lockport.</i>						
Water conduit.....	State of New York..	Larkin & Sangster.....	1	63	1	1
<i>New York City.</i>						
Building foundations.....	Emigrant Savings Bk.	O'Rourke Engineering Contracting Co.....	*21	18	1	2
Building foundations.....	James Butler.....	O'Rourke Engineering Contracting Co.....	*31	18	1	1
Building foundations.....	United Fire Co.'s.....	O'Rourke Engineering Contracting Co.....	*52	60	1	1
Building foundations.....	Manhattan Trust Co.	The Foundation Co.....	*11	10		1
Building foundations.....	F. W. Woolworth.....	The Foundation Co.....	*69	50	1	3
Drain.....	College of City of New York.....	Thos. S. Crimmins Cont'g Co.	1	25	1	
Gas main (Bronx and Queens).....	Astoria Light, Heat and Power Co....	Jacobs & Davies.....	1	450	2	5
Railroad.....	Hudson and Manhattan R. R. Co.....	Degnon Contracting Co.....	1	100		1
Railroad (B'klyn Borough).	City of New York....	Bradley Contracting Co.....	2	975	4	2
Railroad (B'klyn Borough).	City of New York....	E. E. Smith Contracting Co..	2	1,300	4	2
Railroad (B'klyn Borough).	City of New York....	Smith, Scott & Co.....	1	293	2	1
Railroad (B'klyn Borough).	City of New York....	Tide Water Building Co. & T. B. Bryson.....	1	300	2	1
Shaft and station.....	City of New York....	Rapid Transit Subway Construction Co.....	1	50		2
Shaft and station.....	City of New York....	Rapid Transit Subway Construction Co.....	1	25		1
<i>Niagara Falls.</i>						
Sewer.....	City of Niagara Falls.	Reed & Coddington.....	1	40	1	1
Sewer.....	City of Niagara Falls.	Reed & Coddington.....	1	30		2
<i>Rochester.</i>						
Sewer.....	City of Rochester....	Ripton & Murphy.....	1	75	1	3
<i>Yonkers.</i>						
Sewer.....	Co. of Westchester..	American Pipe and Construction Co.....	2	75	1	1
Total.....			208	4,500	27	37
NEW YORK CITY AQUEDUCT.						
<i>Orange County.</i>						
New Windsor and Cornwall	City of New York...	Mason & Hanger Co.....	1	913	2	8
<i>Orange & Dutchess Counties.</i>						
Cornwall and Storm King..	City of New York...	T. A. Gillespie Co.....	1	238	2	3
<i>Putnam County.</i>						
Phillipstown.....	City of New York....	B. Barker & J. G. Shaw.....	1	238	2	3
Phillipstown.....	City of New York....	R. K. Everett & Co.....	1	28	1	3

* Seasons.

† Average number where more than one return in the year was made.

a Part of tunnel being driven under air pressure.

STATISTICS OF TUNNELS INSPECTED, 1911—(Concluded).

LOCATION AND KIND OF WORK.	Owner.	Contractor or constructor.	Number of tunnels or sections.	Number of employees. †	NUMBER OF—	
					Inspections.	Observations.
NEW YORK CITY AQUEDUCT—(Concluded).						
<i>Putnam Co.—(Concluded).</i>						
Phillipstown.....	City of New York....	Hicks, Johnson Co.....	1	145	2	6
Putnam Valley.....	City of New York....	Cleveland Tunnel Co.....	1	35	1	3
<i>Putnam and Dutchess Counties.</i>						
Phillipstown and Storm King.....	City of New York....	Dravo Contracting Co.....	2	88	2	2
<i>Ulster County.</i>						
Marbletown.....	City of New York....	H. S. Kerbaugh, Inc.....	1	15		4
Marbletown, New Palts.....	City of New York....	T. A. Gillespie Co.....	2	875	2	8
New Palts.....	City of New York....	Carpenter & Boxley.....	1	38	1	2
New Palts.....	City of New York....	James Pilkington.....	1	30	1	2
New Palts, Gardener.....	City of New York....	Degnon Contracting Co.....	1	1,000	2	3
<i>Westchester County.</i>						
Mt. Pleasant.....	City of New York....	H. S. Kerbaugh, Inc.....	1	30	1	3
Mt. Pleasant-Greenburg.....	City of New York....	Pittsburgh Contracting Co.....	3	163	3	3
New Castle-Mt. Pleasant.....	City of New York....	Rinehart & Dennis.....	8	352	5	7
Yonkers.....	City of New York....	Dravo Contracting Co.....	2	156	2	1
Yonkers.....	City of New York....	Geo. W. Jackson, Inc.....	1	553	2	3
Yorktown.....	City of New York....	Chas. W. Blakelee & Sons.....	2	39	3	5
Yorktown.....	City of New York....	Bradley Contracting Co.....	2	233	3	6
Yorktown.....	City of New York....	Glyndon Contracting Co.....	2	111	2	7
Total.....			35	4,980	39	83
Grand Total.....			243	9,480	66	119

† Average number where more than one return in the year was made.

(D) REPORT OF THE MINE INSPECTOR.

HON. JOHN WILLIAMS:

Commissioner of Labor, Albany, N. Y.

SIR: I beg to report to you on the conditions in mines and quarries of the State and also in the factories where the products of these mines and quarries are treated. My term of office as mine inspector covers only that part of the present fiscal year from May 10 to October 1.

During the year a total of 122 mines and quarries were inspected, 107 by myself and the remainder by my predecessor.* In addition, visits to ascertain whether orders had been complied with numbered 38 for the year, all of which constituted a part of my work.

The table given below shows the prevailing causes of accidents that it has been my duty to point out to operators and mine officials on my visits of inspection. The largest number of orders issued to remedy certain defects does not prove that such defect, neglect, or practice is the greatest cause of accidents, but merely shows the number of operators that failed to comply with the mining law regarding that particular condition or practice.

SUBJECT.	NUMBER OF ORDERS ISSUED BY—		Total.
	Present inspector.	Former inspector.	
Payment of wages weekly to employees.....	18	.....	18
Payment of wages in cash.....	4	.....	4
Additional outlets to mine.....	3	3	6
Explosives, storage.....	120	2	122
Explosives, thawing outfits.....	40	.....	40
Designation of special blasters.....	10	.....	10
Metal tamping rods.....	12	1	13
System of warning when blasting.....	2	.....	2
Improvement of traveling ways.....	4	.....	4
Inspection of steam boilers.....	85	.....	85
Keeping record of accidents.....	11	.....	11
Reporting accidents.....	10	.....	10
Sanitary closets.....	9	.....	9
Washrooms.....	15	.....	15
Supply and receptacles for drinking water.....	11	.....	11
Ventilation.....	2	1	3
Shaft timbering.....	1	.....	1
Headings.....	2	.....	2
Various dangerous practices.....	39	2	41
	†398	‡9	407

* In addition, 84 factories or mills in connection with mines and quarries were inspected; 71 by myself.

† In addition, 288 orders to guard machinery in factories were issued.

‡ In addition, 3 orders to guard machinery in factories were issued.

The greatest number of accidents were due to placing and allowing men to work in the mines and quarries in places where they were liable to receive injuries, without due care and proper supervision over them by foremen whose duty it should be to see that all places are fit for men to work in, just as it is their duty to see that so much tonnage is hoisted or manufactured. The employees also have contributed their share through negligence and disregard of orders of foremen and rules of mine and mining. Where the operators and foremen strictly enforce rules, accidents are rare. There is one great disadvantage for the operator in this state, compared with those of other states and European countries, namely, that the mining law of the state and the special rules prescribed by the Commissioner of Labor are binding only on the employer, while the employee breaks the same with impunity. Dangerous practices will creep into mines, and the only remedy the operator has is to dismiss offending employees. These are a few of the offenses that, in my opinion, should be punishable by fines in preference to dismissal:

1. Riding on loaded skip or on bail of skip.
2. Possessing or using metal tamping bar.
3. Thawing dynamite with other than proper thawing outfit.
4. Leaving loaded or unexploded charges in holes without notifying foreman of incoming shift.
5. Neglecting to examine ground for unexploded or partially exploded charges before drilling is resumed.
6. Storing caps or exploders with dynamite or powder.
7. Blasting when not specially designated as blaster.
8. Signalling when not authorized.
9. Crimping caps near explosives with teeth or with any tool other than proper crimper.
10. Removing hand rails or guards from machinery or neglecting to replace same after repairs.

Eighteen corporations were ordered to pay wages of their employees weekly. Four corporations were ordered to pay their employees in cash and without any store deductions.

Two mines were ordered to provide more than one outlet, for safety as well as for better ventilation. On the whole, ventilation in all mines was good.

Ample timber was supplied to all mines, but I found some underground foremen somewhat lax in their inspection of re-

timbering after blasts and also in inspecting the headings after the steam drillers and roofmen. They are inclined to forget that they are always responsible to see that the work is properly done.

Owing to the fact that the state has no explosive law, I found explosives often stored in unsuitable buildings and locations—some close to dwellings, boiler houses and shaftheads. Much of this has already been remedied. Many have concrete buildings erected at safe distances from men and are comparatively safe even should the contents explode. Since previous inspection one magazine in Jefferson County was fired at with a rifle, and three bullets penetrated the outer door of $\frac{1}{4}$ -inch iron and half way through the 3-inch hard wood lining.

There are a variety of crude and dangerous ways used to thaw dynamite. Some use a coal or wood stove. Some use live steam; some use double vessels, and those in some cases put over a fire. There is some difficulty in recommending the same system to large and to small users of dynamite. I consider the water heater system the safest means for thawing large quantities.

A considerable number of small operators were negligent in having their boilers inspected and also in sending to the Department a copy of the inspection reports. Some, because their boilers were in bad condition, and they had no desire to make it known.

Regarding blasting and blasters, I found much irregularity, especially among the smaller operators. Time was taken to observe their methods of blasting and to correct some old blasters who still think that, having escaped with their lives for many years, it is safe to tamp charges of dynamite with a crowbar, iron bolt and hammer, or a steam pipe with wooden plug in the end of it and a few nails driven in that to keep it from wearing. It is hard to convince them, and, as pointed out to the employer, it is often best to appoint a blaster in place of such. It is almost impossible to change the habits of an old blaster. I believe every operator should post at his mine or quarry the names of the "specially designated blasters" in his employ, and that these persons be first approved of by the mine inspector as competent. The publication and free circulation of handbooks of instructions relative to storage and handling of explosives and exploders and

blasting, will, I have no doubt, help to educate the men and prevent many accidents.

Regarding the reporting of accidents, I found a great tendency among the smaller operators to report only serious accidents.

Many operators of mines are improving their traveling ways to mines, particularly those with inclined shafts, by replacing ladders with stairs and handrails and, where practical, running the pathway through disused chambers.

There are some dangerous conditions in mines arising from possibility of skips or cars running away on inclines and killing men employed on mine floor. These conditions are being rectified by automatic stop blocks and by advancing shafts below working floors, thereby forming a pocket for possible runaway skips.

I found no boys under sixteen years of age working in mines.

Considerable progress has been made in providing sanitary closets and washrooms for the men. Some operators are very doubtful whether washrooms would be appreciated. Why not educate the men? At the mine of the Hudson Iron Company, Fort Montgomery, the miners can be seen every evening rushing for the washroom. At this mine, lockers are provided for the men. The building is steam heated and equipped with sinks and hot and cold water. In an adjoining room is a shower bath.

Machinery in factories in connection with mines and quarries was not well guarded, with tendency to put up frail guards and handrails, flimsy wooden brackets instead of firm iron bands or substantial box covers for gears.

I received every facility for inspecting all mines, quarries and factories from operators and their agents, and my recommendations were generally complied with immediately.

Respectfully submitted,

(Signed) WILLIAM W. JONES,
Mine Inspector.

APPENDIX III.
GENERAL REPORT OF BUREAU OF MEDIATION AND
ARBITRATION.

HON. JOHN WILLIAMS,

Commissioner of Labor, Albany, N. Y.

SIR: I have the honor to present the following report of the work of the bureau of mediation and arbitration for the fiscal year ending September 30, 1911.

Under the supervision and direction of the Commissioner of Labor this bureau exercises the powers of the people of the State of New York, as defined by statute, which relate to industrial disputes.

The chief power of the bureau is seldom exercised but is available at any time when, in a threatened or existing strike or lockout, the Commissioner of Labor deems it advisable that the board of mediation and arbitration be convened. The board when so convened has large powers of inquiry and should be able to direct public sentiment on which the success or failure of strikes so largely depends. It is evident that the Legislature did not intend this formal inquiry to be made except in extraordinary cases where the public interests are seriously affected.

The bureau has a growing influence in the settlement of disputes by mediation. This work is of great importance and certain comparative statistics are herewith presented to illustrate the activity of the bureau, so far as such work can be shown in statistical form. It should be borne in mind that the results of such work cannot be fully stated by the number of "settlements effected," because in such number can be included only those cases in which the bureau's efforts were clearly the immediate means of settlement. This necessarily means that all those cases in which the bureau's efforts may have contributed to the final settlement in any degree inside the limit of being a primary means of settlement, must be excluded. Further, the educational effect which may attach to any effort for settlement of disputes is, of course, wholly beyond any statistical measurement.

Partly because statistics do not fully measure the value of the work of the bureau, but chiefly because of the industrial importance of the disputes themselves, and to illustrate the methods of intervention, the bureau's efforts for settlement in several of the chief disputes of the year are recounted in full in the pages following the statistical summaries.

COMPARISON OF DISPUTES, 1909-11.

	1909.	1910.	1911.
Number of strikes and lockouts.....	176	250	215
Employees involved / directly.....	52,599	190,603	84,128
\ indirectly.....	14,579	16,319	10,020
Aggregate days of working time lost.....	<u>*1,061,094</u>	<u>*5,783,394</u>	<u>†2,217,830</u>

* To the end of all disputes.
 † To September 30, 1911.

The average labor dispute this year has not involved nearly so many men as last year, when 250 disputes involved a total of about 207,000 men, while this year 215 disputes involved about 94,000 men. There was a small diminution in number of disputes, but a large decrease in the number of men involved. The aggregate number of days lost was little over one-third as much as during the preceding year. The total number of working days lost was greater, however, than in any year except last year since 1905.

PRINCIPAL CAUSE OR OBJECT OF DISPUTES.

	Number of disputes.		Number of working days lost, 1911.
	1910.	1911.	
Increase in wages.....	134	88	577,562
Reduction in wages.....	5	14	22,031
Shorter hours.....	14	12	921,132
Longer hours.....	4	.....	.....
Trade unionism.....	41	59	445,933
Particular persons.....	18	16	17,701
Working arrangements.....	27	12	203,619
Payment of wages.....	3	.....	.....
Sympathetic.....	4	8	24,102
Miscellaneous.....	.....	6	5,750

To study the principal cause or object of disputes we need to consider not only the number of disputes or strikes caused by a

given grievance, but the aggregate time lost in those disputes. Judging by both these standards the principal causes of industrial unrest during the year were the issues of "shorter hours," "increased wages," "trade unionism" and "working arrangements."

It is interesting to note that these same issues were the prevailing causes of strikes last year.

TRADES AFFECTED.

	Number of disputes.		Number of working days lost, 1911.
	1910.	1911.	
1. Stone, clay, glass products.....	13	11	30,381
2. Metals, machines, conveyances.....	46	27	1,078,013
3. Wood manufacturers.....	6	10	70,000
4. Leather and rubber goods.....	12	6	216,349
5. Chemicals, oils, paints, etc.....	.....	1	200
6. Paper and pulp.....	5	1	27,540
7. Printing and paper goods.....	3	10	47,889
8. Textiles.....	13	13	16,472
9. Clothing, millinery, etc.....	27	19	338,795
10. Food, liquors, tobacco.....	15	16	41,308
11. Water, light, power.....	1	.....	.....
12. Building industry.....	79	77	227,896
13. Transportation, communication.....	27	21	121,666
14. Trade.....	2	1	1,000
15. Professions.....	1	1	300
16. Public employment.....	.....	1	21

The same trades were in general affected by strikes and in about the same proportion as in 1910. The most numerous disputes were as usual in the building, metal, clothing, transportation and leather industries. The principal disputes affecting these trades were in New York City, and included building trades disputes, involving sheet metal workers, structural iron workers and marble workers, express drivers' and chauffeurs' strikes, a general movement by machinists for a shorter working day, by boilermakers for increase in wages and by boilermakers of the New York Central railroad against piece work, by shoe workers and trunk makers, and disturbances in the clothing trades. These disputes not only involved a large number of men, but lasted for several weeks, and in some cases for several months, which accounts for the large aggregate of working days lost in these industries.

RESULTS OF DISPUTES.

	Number of Disputes.	
	1910.	1911.
Strikes successful.....	80	61
Strikes partly successful.....	67	48
Strikes lost.....	103	102
Strikes pending.....		4

The number of strikes won or compromised to some advantage to the workmen is slightly greater than the number of strikes lost. This does not show the whole truth, however, in regard to the alleged efficacy of the strike as a means of promoting the welfare of workmen. A subsequent table shows that many of the disputes involving the largest number of workmen were won or compromised, while most of the strikes lost were those engaging a relatively small number of workmen. Many strikes both large and small which were untimely or ill advised were lost because of such weakness. This goes to show that the more consideration given to avoiding strikes the more likely those finally undertaken are to be successful. On the other hand we must not overlook the economic waste of strikes caused by loss of wages to workmen, loss of production to the community and weakening of resources of employers, so that in many cases the latter are forced to curtail their business. Where strikes occur without exhausting every effort to prevent them, or for insufficient cause, the evils they bring are to be blamed upon the workmen or employers who are responsible for the hasty action or the ill-advised decision.

METHODS OF SETTLEMENT OF STRIKES WON OR COMPROMISED.

	Number of Disputes.	
	1910.	1911.
Direct negotiations between parties.....	125	93
Mediation by State Bureau.....	19	14
Mediation by other agencies.....	3	2

As in the preceding table these figures do not show all the facts in the case. Many strikes or lockouts occur and are settled almost immediately before mediation of any sort can be offered. Many small strikes do not reach the attention of the bureau until after a settlement has been effected, even after a considerable period

of time. In other cases the mediators of the bureau are all engaged in disputes of importance and small strikes are necessarily neglected. It will be seen by a later table that the bureau has been active in mediation of all the important disputes and that in reference to number of men involved and aggregate number of working days lost the proportion of disturbances in which the bureau has taken an active part is much larger than is shown simply by the number of successful efforts at mediation. Local efforts at mediation by individuals and private organizations show a very small measure of success as compared with the work of the state bureau of mediation and arbitration, whose experience and authority naturally give it the lead in this work.

Trade or industrial agreements are recognized by most authorities as the best preliminary safeguard against labor disturbances. The growth of the trade union movement and the improvement in methods of management of the unions themselves are responsible largely for the increase in number of working agreements entered into between employer and the employed. That trade agreements are frequently broken is unfortunately true. They are frequently disregarded both by workmen and employers. This must create some distrust of such agreements, and many men say that they are without value on this account. The experience of this bureau is that trade agreements in general are well observed, especially in the trades best organized. That is to say, both employers and workmen in the trades where the union organization is oldest and firmest show little if any inclination to disregard their pledges. As time goes on and the strength of trade organizations is improved among employers and employees, the trade agreement will bear fruit in lessened disturbances. Experience in unwise, ill-considered strikes will tend to promote more careful consideration by employers and more conservative leadership by the trade union officers to avoid disastrous and unnecessary disputes. The bureau endeavors to collect and publish in its final report the trade agreements entered into during the year. The growth of a sentiment for arbitration of disputes is shown in the fact that most recent agreements contain clauses providing for arbitration.

The following comparison of interventions and list of disputes

in which interventions occurred are given to show the special activity of the bureau. A few disputes are settled by direct mediation of the bureau, without any formal conferences being arranged and without direct intervention in attempting to bring the parties together. Quite frequently a strike is so apparently hopeless of settlement by compromise or by continued efforts that the officers of the bureau feel obliged to advise the party in error to close the controversy, without the formality of a conference. Where this advice is accepted as quite frequently happens, the bureau's intervention is as successful from the public standpoint as in cases of compromise or formal settlement.

COMPARISON OF INTERVENTIONS, 1910-1911.

	1910.	1911.
Number of disputes in which intervention occurred.....	92	80
Total number of interventions, including second and third efforts.....	108	85
Number of requests received for first intervention.....	15	21
Number of requests for second or third intervention.....	9	3
Number of disputes in which intervention was successful.....	22	21
Number of disputes in which intervention was unsuccessful.....	70	59
Number of interventions before strikes.....	10	8
Whole number of conferences arranged.....	35	31
Number of disputes settled by mediation with parties separately.....	3	4
Dispute (not a strike) settled by arbitration.....		1
Dispute settled by informal investigation.....		1

Appended to this report is a tabular summary of all the year's interventions.

The year has shown a rather unusual proportion of strikes on public service and *quasi* public service corporations, though the disputes involving railroads have been relatively inconsiderable from the standpoint of interruption of traffic. The great express strike, the chauffeurs' strike, the New York Central signalmen's strike, the New York Central boilermakers' strike, the Brooklyn trolley strike and small disturbances in the New York City department of docks and ferries, as well as threatened trouble among the longshoremen and strikes of employees in the coastwise steamship traffic and of maintenance-of-way employees of the D., L. & W. railroad, have all shown the importance of considering governmental relations to disputes affecting corporations engaged in the public service. The bureau of mediation and arbitration has exercised considerable influence in preventing the spread of strikes

and in bringing about a speedy adjustment of those strikes which affected the public. It has not been necessary during the year for the Commissioner of Labor to exercise his present powers of investigation through the state board of mediation. Laws providing for compulsory arbitration or mandatory investigation before a strike is legal, are in effect in Canada, Australia and New Zealand. The great body of labor organizations in New York are opposed to such legislation on the ground that our constitutional guarantees would be infringed if workmen were compelled to continue at work against their wishes; and most employers of labor also oppose such legislation as an infringement of their natural or chartered rights. The bureau is making a study of public opinion on this subject, corresponding with various civic and industrial bodies of employers and of employees, and will make a report of the result of its investigation.

We would recommend for legislation at present only an amendment to the Labor Law to secure immediate information to the bureau from the responsible public officers in the city and county police service, of any strike or lockout in their jurisdiction. Our present reliance must be placed on news reports and chance information or requests from the parties to disputes. Thus a small disturbance might easily be remedied, but by failure of having notice of the disturbance the bureau may be unable to act until a serious condition exists involving a vast economic waste.

The subordinate officers of the bureau of mediation and arbitration are doing satisfactory work. The salaries of two assistant mediators should be increased to \$2,000. Mediators of the bureau are field agents, and are occupied practically all the time in active intervention work. The bureau needs the services of an efficient secretary to insure systematic records of strikes and lockouts and the measures taken to prevent and settle labor difficulties, and to have charge of the office in the absence of the field officers. Much valuable information and material for study is now lost through lack of such service. The published reports of the bureau in the annual reports and quarterly bulletins of the Department represent to the people of the state the main source of information regarding industrial disturbances in the greatest industrial com-

monwealth. Our reports should be broadened and strengthened, as can only be done by an officer having that special duty.

In concluding my first annual report as chief mediator I desire to express my thanks and appreciation to the Commissioner of Labor and the officers of the Department of Labor for their assistance and co-operation.

Very respectfully,

(Signed) WILLIAM C. ROGERS,
Second Deputy Commissioner of Labor.

TABULAR SUMMARY OF INTERVENTIONS.
(Showing also number of interventions, requests for intervention and threatened as well as actual strikes.)

LOCALITY.	Trade involved.	Date of strike.	Number of employes affected.	Date of intervention.	Result of intervention.	Result of strike.
Albany.....	Livery drivers.....	*Dec. —, 1910	100	Dec. 23, 1910...	Both parties were interviewed; Bureau recommended that should no agreement be reached by Jan. 1, Bureau be given opportunity to intervene before strike or lockout should occur; to which both parties agreed.	Wages increased as demanded; no strike occurred.
†Albany.....	Plumbers.....	Aug. 13, 1910	112	Jan. 10, 1911...	Conferences arranged Jan. 10 and 13, unsuccessful.	Wages increased as demanded by 36 firms employing 50 plumbers; strike failed in other cases. Strike failed; 14 strikers returned to work; places of others filled. Settlement, with compromise increase in wages. Compromise settlement.
‡Amsterdam and Fonda.	Broom makers.....	Nov. 25, 1910	150	Nov. 25, 1910; Jan. 30, 1911.	Conference suggested by Bureau declined by employers.	Compromise settlement in 5 shops; in other shop, places were filled by May 13.
Brookway and Chelsea.	Brickmakers.....	June 9, 1911	371	June 16, 1911...	Conferece arranged between manufacturers and employes.	Most of the strikers returned to work under old conditions. Strikers returned to work at the reduced wages proposed by employers.
Buffalo.....	Automobile painters, etc.	Jan. 16, 1911	333	Feb. 2, 1911...	Conferece arranged which resulted in settlement.	Strike failed; strikers returned to work.
Buffalo.....	Boilermakers.....	Feb. 11, 1911	155	Feb. 15; Feb. 22, 1911.	Conferece arranged between manufacturers and boilermakers' committee which resulted in settlement except in one shop.	Compromise settlement by direct negotiations of the parties.
Buffalo.....	Millmen.....	May 15, 1911	450	July 18, 1911...	Conferece arranged; not successful.	No settlement; strikers' places filled and strikers found employment elsewhere on union terms.
Coeymans.....	Brickmakers.....	May 15, 1911	427	May 16, 1911...	Investigation of conditions in other yards conducted; similar conditions revealed.	
†D. L. & W. R. R. §.	Track foremen and laborers.	Sept. 18, 1911	545	Sept. 11, 1911...	Conferece and arbitration proposed by Bureau but declined by Company.	
Glasco.....	Brickmakers.....	May 18, 1911	432	May 24, 1911...	Conferece suggested but not arranged; mediation with parties separately unsuccessful.	
Huntington.....	Carpenters.....	May 1, 1911	68	May 6, 1911...	Conferece suggested but not arranged as employers refused to confer.	

Little Falls.....	Machinists and others	Dec. 21, 1910	70	Jan. 4, 1911....	Conferees Jan. 5 and 6, arranged by Bureau, were unsuccessful; attempted arbitration failed. Conference was proposed; proposition for settlement was secured from one firm but afterward repudiated by the firm. Conferees were arranged and proposition for settlement offered but without success. Arbitration was suggested but union declined it as unnecessary. Conference arranged between strikers and one employer was unsuccessful; employers' association refused to go into conference. Suggestions for conference were not accepted by employer. Conferees arranged with parties separately resulted in strikers' return to work.	Strikers returned to work under old conditions as result of direct negotiations of the parties. Demands were granted by one firm employing 20 molders; strikers' places filled in other foundries. Dispute was pending Nov. 1.
Hockport.....	Molders.....	June 30, 1910	54	Feb. 17, 1911....	Arbitration was proposed but not accepted by the parties. Employers were requested to meet committee of strikers but refused. Conference was suggested but managers of railway refused to meet strikers' representative. Conference arranged was unsuccessful; strikers were urged to accept terms of settlement offered, which they did.	Demands were granted through compromise settlement; hours reduced but union not recognized. No settlement made; strikers' places were filled. Strike failed; strikers returned to work under old conditions.
†N. Y. Central Lines.	Boilermakers.....	Feb. 20, 1911	756	Feb. 21, 1911....	Conferees were arranged and proposition for settlement offered but without success. Arbitration was suggested but union declined it as unnecessary. Conference arranged with parties separately resulted in strikers' return to work.	Wages increased and union recognized as demanded. Half the strikers returned to work under old conditions; places of others filled. Strike failed; places filled.
†New York City.....	Bakers.....	May 1, 1911	1,600	April 27, 1911....	Conferees were arranged and proposition for settlement offered but without success. Arbitration was suggested but union declined it as unnecessary. Conference arranged with parties separately resulted in strikers' return to work.	Mediation by mayor resulted in settlement with wage increase, better working conditions and no discrimination between union and non-union employees. No settlement with strikers; places were filled with new employees. Strikers returned to work under old conditions. Compromise settlement.
New York City.....	Bank clerks.....	Feb. 11, 1911	20	Feb. 14, 1911....	Conferees were arranged and proposition for settlement offered but without success. Arbitration was suggested but union declined it as unnecessary. Conference arranged with parties separately resulted in strikers' return to work.	Demands were granted through direct negotiations of the parties.
New York City.....	Bed spring makers...	Feb. 27, 1911	46	Mar. 3, 1911....	Conferees were arranged and proposition for settlement offered but without success. Arbitration was suggested but union declined it as unnecessary. Conference arranged with parties separately resulted in strikers' return to work.	
New York City.....	Boilermakers and helpers.	May 1, 1911	750	May] 2, 1911....	Conferees were arranged and proposition for settlement offered but without success. Arbitration was suggested but union declined it as unnecessary. Conference arranged with parties separately resulted in strikers' return to work.	
New York City.....	Bookbinders.....	Jan. 25, 1911	80	Jan. 30, 1911....	Conferees were arranged and proposition for settlement offered but without success. Arbitration was suggested but union declined it as unnecessary. Conference arranged with parties separately resulted in strikers' return to work.	
New York City.....	Box makers.....	Mar. 6, 1911	48	Mar. 28, 1911....	Conferees were arranged and proposition for settlement offered but without success. Arbitration was suggested but union declined it as unnecessary. Conference arranged with parties separately resulted in strikers' return to work.	
New York City.....	Channel rail men....	May 8, 1911	60	May 10, 1911....	Conferees were arranged and proposition for settlement offered but without success. Arbitration was suggested but union declined it as unnecessary. Conference arranged with parties separately resulted in strikers' return to work.	
New York City.....	Chauffeurs and cab drivers.	Nov. 7, 1910	1,310	Nov. 7, 1910....	Conferees were arranged and proposition for settlement offered but without success. Arbitration was suggested but union declined it as unnecessary. Conference arranged with parties separately resulted in strikers' return to work.	
New York City.....	Conductors and motormen.	Aug. 5, 1911	446	July 5, 1911....	Conferees were arranged and proposition for settlement offered but without success. Arbitration was suggested but union declined it as unnecessary. Conference arranged with parties separately resulted in strikers' return to work.	
†New York City.....	Cork cutters.....	May 6, 1911	600	May 16, 1911....	Conferees were arranged and proposition for settlement offered but without success. Arbitration was suggested but union declined it as unnecessary. Conference arranged with parties separately resulted in strikers' return to work.	
New York City.....	Drug clerks, etc....	Sept. 25, 1911	240	Sept. 28, 1911....	Conferees were arranged and proposition for settlement offered but without success. Arbitration was suggested but union declined it as unnecessary. Conference arranged with parties separately resulted in strikers' return to work.	
New York City.....	Embroiderers.....	Mar. 4, 1911	70	Mar. 13, 1911....	Conferees were arranged and proposition for settlement offered but without success. Arbitration was suggested but union declined it as unnecessary. Conference arranged with parties separately resulted in strikers' return to work.	

* Not a strike. † Intervention requested. ‡ Two or more interventions. See detailed account in Department Bulletin No. 49. § See detailed account in Department Bulletin No. 46.

TABULAR SUMMARY OF INTERVENTIONS—(Continued).
(Showing also number of interventions, requests for intervention and threatened as well as actual strikes.)

LOCALITY.	Trade involved.	Date of strike.	Number of employees affected.	Date of intervention.	Result of intervention.	Result of strike.
New York City.....	Express drivers.....	Oct. 28, 1910	2,800	Oct. 28, 1910...	Threatened general strike of teamsters was deferred on Bureau's request; acceptance of final proposition for settlement was urged on strikers successfully.	Mediation by Bureau, mayor and others resulted in settlement with increase of wages and right to union membership conceded.
New York City.....	Garment workers....	Nov. 14, 1910	150	Dec. 22, 1910...	Conferences were arranged which resulted in settlement.	Compromise; firm's claim established and union recognized.
New York City.....	Glassers.....	Sept. 19, 1910	475	Nov. 1, 1910...	Conference arranged was unsuccessful but mediation resulted in settlement.	Wages increased but no discrimination to be shown between union and non-union men.
New York City.....	Grocery teamsters...	Dec. 27, 1910	37	Jan. 3, 1911...	Employer was asked to meet committee of men but he refused.	Strike failed; places filled.
New York City.....	Grocery teamsters...	Feb. 23, 1911	73	Feb. 27, 1911...	Suggestion for conference was not declined but wage increase was refused; no conference arranged.	No settlement; places filled.
New York City.....	Iron workers.....	Oct. 14, 1910	50	Oct. 18, 1910...	Conference suggested but employer refused to meet strikers because they had joined housemiths' union.	Strikers returned to work under old conditions.
New York City.....	Iron workers.....	Feb. 1, 1911	10	Feb. 24, 1911...	Parties were interviewed and settlement urged but both sides remained firm.	No settlement; strikers' places were filled.
New York City.....	Iron workers and others.	July 19, 1911	78	July 25, 1911...	Superintendent of building was asked to meet strikers' committee but the matter had been placed in hands of city comptroller; no conference arranged.	Demands granted by employment of union laborers.
New York City.....	Iron workers.....	Aug. 29, 1911	90	Sept. 11, 1911...	Conference was arranged; proposition offered but employers' association refused to receive it.	Strike failed; places filled.
New York City.....	Jewelry workers....	Aug. 15, 1911	460	Aug. 28, 1911...	Conference was suggested but employers refused to confer.	Strikers returned to work under old conditions.
New York City.....	Knee pants makers...	Dec. 14, 1910	115	Jan. 19, 1911...	Conference was arranged which resulted in settlement.	Union was recognized and wages increased as demanded.
New York City.....	Ladies' tailors.....	Sept. 13, 1911	4,000	Sept. 14, 1911...	Conference held between Bureau and employers which led to other conferences and final settlement.	Demands were granted.

†New York City.....	Ladies' waist makers.....	July 7, 1911	350	July 27, 1911.....	Employer refused Bureau's request that he meet committee of strikers. Parties were interviewed and urged to adjust dispute; unsuccessful.	Strike failed; factory moved out of town.
New York City.....	Laundry workers.....	May 29, 1911	350	May 29, 1911.....	Members of employers' association refused to confer or to recognize union in any way.	Union was recognized as result of direct negotiations between the parties.
New York City.....	Leather workers.....	June 17, 1911	4,000	June 22, 1911.....	Conference arranged before strike, which was unsuccessful.	Strike failed; places filled but afterward most of the strikers were re-employed.
New York City.....	Machinists.....	May 1, 1911	10,000	April 24, 1911.....	Conference was arranged and propositions suggested which resulted in settlement.	Strike successful or compromised in two shops affecting 2,350 machinists; failed in others.
New York City.....	Machinists.....	May 1, 1911	850	June 24, 1911.....	Conferece was arranged and propositions suggested which resulted in settlement.	Compromise settlement; hours to be reduced gradually.
New York City.....	Machinists.....	May 2, 1911	1,500	May 8, 1911.....	Conferece was arranged and propositions suggested which resulted in settlement.	Hours reduced as demanded to be effective June 1.
New York City.....	Marble workers.....	Aug. 5, 1911	2,400	Aug. 8, 1911 ..	Attempts to arrange conference were unsuccessful.	Dispute was pending Nov. 6.
New York City.....	Marine engineers and assistants.....	*Jan. 1911	60	Jan. 5, 1911.....	Both sides were interviewed and urged to continue negotiations without stoppage of work.	Settlement reached without strike.
New York City.....	Matsoth bakers.....	Jan. 29, 1911	400	Feb. 7, 1911.....	Suggestion for conference was accepted by employer but declined by union; none arranged.	Union was recognized verbally, wages increased and hours reduced as result of mediation by committee of rabbis.
†New York City.....	Metal polishers and spinners.....	Oct. 14, 1910	210	Oct. 18, 1910.....	Efforts to arrange conference proved unsuccessful.	Strike failed; places filled with new employees.
New York City.....	Messenger boys.....	Nov. 23, 1910	400	Nov. 29, 1910.....	Conferece suggested but employer refused to meet strikers until they returned to work.	Strike failed; 300 strikers returned to work; places of others were filled.
New York City.....	Paper box makers.....	Feb. 27, 1911	1,800	March 1, 1911.....	Request for conference was refused by officers and members of employers' association.	About one-third of strikers won compromise; others returned to work under non-union conditions.
†New York City.....	Paper box makers.....	Mar. 27, 1911	30	April 5, 1911.....	Employer refused Bureau's request that he meet strikers, and insisted on running an "open shop."	Strike failed; places filled.
New York City.....	Paper box makers.....	June 19, 1911	260	June 27, 1911.....	Conferece arranged but no settlement reached.	Later conferences between employer and union resulted in recognition of union but no increase of wages.
New York City.....	Plumbers.....	July 6, 1911	100	July 18, 1911.....	Parties were urged to meet in conference; conference was held though not arranged by Bureau.	Wages increased as demanded; no agreement signed.
New York City.....	Sailors, cooks and others.....	June 17, 1911	307	June 17, 1911.....	Conferece arranged which resulted in settlement and averted a threatened strike on other lines.	Compromise settlement.
New York City§.....	Sheet metal workers.....	July 18, 1910	1,800	Nov. 15, 1910.....	Conferece arranged; arbitration was agreed and accepted.	Dispute submitted to arbitration but arbitration was not carried out.

§ See detailed account in Department Bulletin No. 46.

† Intervention requested.

* Not a strike.

TABULAR SUMMARY OF INTERVENTIONS—(Continued).
 (Showing also number of interventions, requests for intervention and threatened as well as actual strikes.)

LOCALITY.	Trade involved.	Date of strike.	Number of employees affected.	Date of intervention.	Result of intervention.	Result of strike.
New York City.....	Shirt waist makers....	Dec. 15, 1910	198	Dec. 22, 1910....	Conference was arranged for one firm but parties failed to reach agreement.	Strike compromised in one factory and failed in the other.
†New York City.....	Shipwrights and carpenters.....	April 20, 1911	156	May 12, 1911....	Efforts to arrange conference were unsuccessful.	No settlement with strikers; places filled.
†New York City.....	Shoe trimming cutters.....	.....*	.....	May 19, 1911....	Successful arbitration by Industrial Mediator.	Compromise decision.
New York City.....	Shoe workers.....	Nov. 21, 1910	700	Nov. 28, 1910....	Efforts to arrange conference unsuccessful; employers refused to recognize strikers' union.	Strike failed; strikers returned to work.
†New York City.....	Surgical instrument makers.....	Mar. 20, 1911	38	April 7, 1911....	Employer refused Bureau's request that he meet committee of men on strike.	No settlement with strikers; places filled.
New York City.....	Tailors.....	Oct. 10, 1910	10,000	Oct. 12, 1910....	Efforts to arrange conference unsuccessful.	Demands granted in 500 shops employing 7,000 tailors.
New York City.....	Tailors.....	July 10, 1911	150	July 26, 1911....	Mediation and suggestions for conference unsuccessful.	No settlement with strikers; places filled.
New York City.....	Tinware makers.....	Oct. 11, 1910	147	Oct. 31, 1910....	Conference arranged was unsuccessful; mediation resulted in strikers' return to work on employers' terms.	Strike failed.
†Newburgh.....	Lace operatives.....	*Aug. 1911	.....	Aug. 24, 1911....	.....	.....
†Newburgh.....	Motormen and conductors.....	June 9, 1911	65	June 10, 1911....	Union committee was interviewed but arranged which resulted in settlement.	Compromise settlement.
†Rifton.....	Carpet weavers.....	July 31, 1911	75	Aug. 31, 1911....	General superintendent was asked to meet committee of strikers but he refused to meet them or to make any concession.	Reduced rates against which strike occurred were established.
Rochester.....	Bricklayers, plasterers and stone masons.....	Nov. 3, 1910	640	Nov. 7, 1910....	Conference was arranged but did not result in settlement.	Satisfactory settlement obtained through negotiations between unions and employers.
Schenectady.....	Building laborers.....	June 14, 1911	250	June 15, 1911....	Efforts to arrange conference unsuccessful as employers refused to meet committee.	Strike failed; strikers returned to work.
†Schenectady.....	Excavators.....	June 10, 1911	600	July 10, 1911....	Conference was suggested but arrangements deferred on request of employers.	Compromise settlement through direct negotiations.

†Sillwater.....	June 5, 1911	38	June 8, 1911.....	Conference was arranged which resulted in settlement.	Strike successful.
Syracuse.....	June 24, 1911	194	July 14, 1911....	Conference was arranged but not successful.	Strike failed; factory removed.
†Syracuse}.....	July 3, 1911	1,107	July 6, 1911....	Conferences arranged which resulted in settlement.	Wages increased and union reorganized.
†Syracuse.....	June 27, 1911	233	July 13, 1911....	Conference was suggested but employers refused to meet or treat with strikers.	Strike failed; strikers returned to work or their places were filled.
†Thunderogs.....	June 12, 1911	360	June 21, 1911....	Efforts to arrange conference unsuccessful; employer refused to concede demands.	Strike failed.
†Troy.....	May 1, 1911	106	May 10-Aug. 1, 1911.....	Conferences arranged which resulted in settlement.	Compromise increase in wages.
Yonkers.....	July 31, 1911	14	Aug. 3, 1911....	Employers and union men were interviewed and urged to adjust dispute; efforts unsuccessful.	Strikers returned to work leaving dispute to be adjusted between the rival unions.

* Not a strike.

† Intervention requested.

‡ Two or more interventions.

§ See detailed account in Department Bulletin No. 49.

APPENDIX IV.
GENERAL REPORT OF BUREAU OF MERCANTILE
INSPECTION.

HON. JOHN WILLIAMS,

Commissioner of Labor, Albany, N. Y.

SIR: The following tables show with some detail the work of the bureau of mercantile inspection for the year ended September 30, 1911:

1. WORK OF DEPUTY MERCANTILE INSPECTORS.

	1911.				Total
	New York			Total.	1910.
	City.	Buffalo.	Rochester.		
Regular inspections:					
Mercantile.....	3,669	511	286	4,466	4,548
Office.....	120	18	8	146	133
Hotel.....	1	3	1	5	8
Bowling alleys.....	40	18	15	73	.....
Places of amusement.....	43	24	1	68	.....
Total.....	3,873	574	311	4,758	4,689
Special inspections:					
Mercantile.....	410	75	21	506	536
Office.....	3	.....	1	4	10
Hotel.....	1	.....	.....	1	1
Bowling alleys.....	4	1	3	8	.....
Places of amusement.....	4	.....	1	5	.....
Total.....	422	76	26	524	547
Observations:					
Mercantile.....	2,884	273	294	3,451	4,356
Office.....	48	10	.....	58	81
Hotel.....	2	1	.....	3	14
Bowling alleys.....	40	16	30	86	.....
Places of amusement.....	67	41	9	117	.....
Total.....	3,041	341	333	3,715	4,451
Investigations:					
Complaints.....	154	25	43	222	149
Compliances (number of establishments),..	2,080	137	178	2,395	1,831
Total.....	2,234	162	221	2,617	1,980

2. CHILDREN FOUND IN MERCANTILE ESTABLISHMENTS.

	14 TO 16 YEARS OF AGE EMPLOYED -				UNDER 14 YEARS. (illegally employed).		Total under 16.
	Legally.		Illegally.		Boys.	Girls.	
	Boys.	Girls.	Boys.	Girls.			
New York City.....	571	761	678	145	287	18	2,460
Bronx.....	2	.....	63	4	43	.....	112
Brooklyn.....	62	20	218	57	102	2	461
Manhattan.....	502	740	375	81	126	15	1,839
Queens.....	5	1	18	3	16	1	44
Richmond.....	.....	.....	4	.....	.....	.....	4
Buffalo.....	381	123	178	61	86	19	848
Rochester.....	195	222	72	20	11	.....	520
Total.....	1,147	1,106	928	226	384	37	3,828

3. ORDERS AND COMPLIANCES.

Subject.	Orders issued.	Orders complied.*
[With reference to section of Labor Law.]		
I. Administration.		
Keep employment certificates on file, § 167.....	1	.....
Keep register of children employed, § 167.....	34	43
II. Sanitation.		
Forty-five minutes for noonday meal, § 161.....	43	41
Twenty minutes for supper, § 161.....	10	10
Provide water closet, § 168.....	453	462
Separate water closets, § 168.....	190	224
Designate water closets, § 168.....	80	97
Clean water closets, § 168.....	413	467
Ventilate water closets, § 168.....	120	91
Paint water closet, § 168.....	9	10
Light water closet, § 168.....	132	126
Remove obscene writing and marking, § 168.....	70	65
Screen water closet, § 168.....	94	85
Repair water closet, § 168.....	143	169
Make water closet accessible, § 168.....	23	31
Repair plumbing, § 168.....	56	54
Provide wash-room, § 168.....	18	12
Clean wash-room, § 168.....	50	16
Repair wash-room, § 168.....	3	3
Make wash-room accessible, § 168.....	10	.....
Light wash-room, § 168.....	1	.....
Clean lunch-room, § 169.....	5	1
III. Children.		
Cease employing children under 16 over 54 hours per week or after 7:00 P. M., § 161.....	298	300
IV. Women and Minors.		
Cease employing females under 21 years over 60 hours per week or after 10:00 P. M., § 161.....	394	416
Provide seats for females, § 170.....	58	58
Totals.....	2,713	2,790

*When the number of orders complied exceeds the number of orders issued, this includes orders issued during the fiscal year 1909-1910, complied during the fiscal year 1910-1911.

4. SUMMARY OF PROSECUTIONS UNDER THE MERCANTILE LAW.

RESULTS TO SEPTEMBER 30, 1911.

OFFENSE.	Number of cases.	Pend- ing.	Dis- missed or ac- quitted.	With- drawn.	Con- victed; sen- tence sus- pended.	Con- victed; fined.	Total fines.
(A) PROCEEDINGS INSTITUTED BEFORE OCTOBER 1, 1910.							
III. Children:							
Employing child under 14, § 162.....	12	....	.....	.....	6	6	\$120
Employing child under 16 without Board of Health cer- tificate, § 162.....	7	....	1	.....	6	.....	.....
Employing child under 16 before 8 A. M. or after 7 P. M., § 161.....	15	....	3	.....	8	4	85
IV. Women and Minors:							
Employing females under 21 after 10 P. M., § 161.....	2	....	1	.....	1	.....	.....
Total.....	36	....	5	.....	21	10	\$205

(B) PROCEEDINGS INSTITUTED DURING CURRENT YEAR.

I. Administration:							
Interfering with deputy mer- cantile inspector, §§ 43, 172.	5	....	2	.....	2	1	\$20
Failure to produce employment certificate upon demand of deputy mercantile inspector, § 167.....	1	....	.....	.....	.....	1	25
II. Sanitation:							
Failure to provide seats for female employees, § 170.....	2	....	.....	.....	.....	2	40
Failure to provide separate water-closet for female em- ployees, § 168.....	2	2	.....	.....	.....	.....	.....
Failure to ventilate water- closet, § 168.....	1	1	.....	.....	.....	.....	.....
III. Children:							
Employing child under 14, § 162	218	19	25	.....	125	49	1,060
Employing child under 16 with- out Board of Health cer- tificate, § 162.....	154	27	16	.....	85	26	580
Employing child under 16 be- fore 8 A. M. or after 7 P. M., § 161.....	138	20	15	.....	73	30	630
IV. Women and Minors:							
Employing female under 21 after 10 P. M., § 161.....	20	2	8	1	14	4	100
Total.....	550	71	66	1	299	113	\$2,455
Grand Total.....	586	71	71	1	320	123	\$2,660

5. COMPLAINTS.

SUBJECT OF COMPLAINT.	Not		Total.	Anonymous.
	Sustained.	sustained.		
II. Sanitation.				
Lack of water-closets.....	13	5	18	6
No lunch hour.....	2		2	
Obscene writing and marking in water-closets....	1		1	1
General sanitary conditions.....	1	7	8	6
No permit for basement.....		1	1	
III. Children.				
Employment of children under 14.....	23	23	46	14
Children 14 to 16 working without certificate.....	36	35	71	11
Children 14 to 16 working before 8:00 A. M.....	5	6	11	7
Children 14 to 16 working after 7:00 P. M.....	8	4	12	4
Children 14 to 16 working over 54 hours per week.	20	6	26	14
IV. Women and Minors.				
Messengers working before 5:00 A. M., or after 10:00 P. M.....		1	1	
Women under 21 years working after 10:00 P. M..	1		1	
Women under 21 years working over 60 hours per week.....	6	6	12	8
Lack of seats for females.....	6	6	12	10
Total.....	122	100	222	81

WORK OF DEPUTY MERCANTILE INSPECTORS.

Three years have elapsed since the Department of Labor has been charged with the enforcement of the provisions of Article XI of the Labor Law in cities of the first class, namely, New York, Buffalo and Rochester. There have been 31,487 inspections and observations made, as follows:

	Inspections.	Observations.	Total
New York City.....	14,074	10,576	24,650
Buffalo.....	2,686	1,817	4,503
Rochester.....	1,093	1,241	2,334

While we have succeeded in covering all sections of the three cities, we have not inspected all places under the jurisdiction of the bureau. We have not been able to perform our work as systematically as we would wish, eight inspectors being too small a force to cope successfully with the existing conditions. The district assigned to the deputy mercantile inspector is too large to be properly or satisfactorily covered. Business offices have received very little attention in comparison to their number. An estimate of what little has been accomplished in offices can be made by comparing the number of inspections and observations made with those

made in mercantile and other establishments during the last three years, which were as follows:

Mercantile, etc.....	30,573
Business offices.....	914

A large percentage of the latter number represents the telegraph offices and those engaged in the distribution or transmission of merchandise, articles or messages. This is an average of about 300 per year, which means that the work as far as offices are concerned has scarcely been started.

We have had numerous inquiries from different sources as to the number of mercantile establishments and business offices in cities of the first class, and the number of their employees. There is considerable surprise and disappointment when we state we cannot furnish the figures. In three years we have not been able to inspect all of the mercantile establishments, to say nothing of business offices. We have been compelled to reinspect many establishments where they persist in violating the law. In the past year there were 5,282 inspections and 3,715 observations made; 2,603 hours consumed in appointments, patrol and miscellaneous, and 3,363 hours were spent prosecuting the 550 cases commenced during the year.

The work of a deputy mercantile inspector cannot be judged by the number of inspections made. The inspectors are compelled to be in their districts before 8 A. M. and after 7 P. M., that they may discover violations relative to the employment of children before 8 A. M. and after 7 P. M. They must also be in the district after 10 P. M. in order to secure evidence regarding the employment of females between 16 and 21 years of age after that hour.

The amendment regarding places of amusement and bowling alleys which went into effect October 1, 1910, has compelled the deputies of the bureau to do considerable night work. It is useless inspecting such places at any other time. The number of violations of child labor in such places, found during the past year, as shown in this report, justifies placing these establishments under the supervision of the Department of Labor.

COMPLAINTS.

During the year 222 complaints were received, as compared with 149 in 1910. There were 141 which were signed by the person making complaint and 81 were anonymous. In each instance where the name and address of the complainant were given, they were communicated with and informed of the result of our investigation. There were 122 sustained and 100 not sustained.

The various subjects of the complaints received are shown in Table 5, *ante*.

WASH ROOMS AND WATER-CLOSETS.

The amendment to section 168, which went into effect October 1, 1911, and which eliminates the words "where women and children are employed," thus making the section apply to all mercantile establishments, has greatly improved this section and will enable the bureau to compel the installation of proper toilet facilities in many establishments where formerly we had no power to remedy unsanitary conditions.

This section should be further amended so that provision may be made for proper lighting of water-closets whenever necessary, This is essential in order to keep closets clean, and the provisions of this section should be extended so as to include business offices, telegraph offices, restaurants and hotels, as in many such places the condition is anything but satisfactory, and in some there are no toilet facilities.

We issued 1,788 orders regarding water-closets during the year, and 1,881 compliances were secured. The excess number of compliance over orders, includes some orders issued in the latter part of the previous year. There were 82 orders issued for wash rooms; 31 compliances were secured.

SEATS FOR FEMALES.

During the year we issued 58 orders to provide seats for females, and secured 58 compliances. It was necessary to prosecute two employers before seats were provided after order had been issued by this bureau. In both instances they pleaded guilty and were fined \$20 each. Since the organization of the bureau these

are the first instances where it was necessary to resort to prosecution to secure a compliance with section 170. We received 12 complaints regarding seats; 6 were sustained and 6 were not sustained. This section of the law is generally complied with, but there is considerable difficulty regarding employees being permitted to use the seats after they are installed. Although seats are provided, their use is prohibited in some establishments; but this state of affairs is gradually changing and employers are seeing the wisdom of permitting a female employee to be seated when not engaged waiting on customers. Where chairs or stools are used it is a difficult matter to keep them in the location required in order to comply with the law. If the section was amended giving power to the bureau to order a proper adjustable seat, permanently secured at a definite location, it would be much more satisfactory to the employer and avoid much annoyance to them and this bureau. Some employers provide boxes and claim that they are a compliance with the law, as this section reads "chairs, stools or other suitable seats." Then the question confronts us as to what is meant by the words "or other suitable seats."

VENTILATION.

Section 171 provides that "women and children shall not be employed, or permitted to work in the basement of a mercantile establishment" unless permission is granted by the Commissioner of Labor. Such permission must be granted if the basement is sufficiently lighted and ventilated and in good sanitary condition. It is questionable whether some of the basements are properly ventilated, or that a proper standard of ventilation is maintained at all times. During the year we have made some air tests on floors other than basements, in mercantile establishments. These tests were made in order to compare these floors with the basement, which is the only part of the building in which we have any authority to require ventilation. We found in basements where there are proper mechanical means of ventilation, that the air was better than on the other floors of the building. When we consider the large number of employees in many of the mercantile

establishments, it seems that all parts of such establishments should be properly ventilated, in order to protect the health of the employees.

The present law authorizes the Commissioner to refuse permission for the use of basements when the same are not sufficiently lighted and ventilated and in good sanitary condition. In all cases where we have refused permission to use the basement because of insufficient ventilation, it was after we had made air tests and found the air conditions below the standard set by recognized authority. In view of the fact that the law does not set a standard, it becomes a question of dispute between the proprietor and this bureau. Were we to prohibit the use of basements it would be considered unjust and arbitrary, and it is questionable whether the courts would sustain the bureau in its judgement as to what is a proper air standard in basements.

I would recommend that this section be amended so as to provide a definite standard of air conditions, and giving power to the Commissioner of Labor to order proper means of ventilating such establishments when necessary after proper air tests had determined that such premises were below the standard set by law and injurious to the persons employed. If such an amendment were made it would be well to eliminate the provision of making the use of basements where women and children are employed contingent on permission from the Commissioner of Labor to use said basement.

CHILD LABOR.

The illegal employment of children in mercantile establishments, business offices, places of amusement and bowling alleys is a problem that requires the constant attention of the inspectors of this bureau.

During the past year there were found legally employed 2,253 children under sixteen years of age; illegally employed 421 under fourteen years, and 1,154 between 14 and 16 years without employment certificates, making a total of 1,575 illegally employed, or 41.1 per cent of the total 3,328 children found employed. This is a very large percentage but it shows a decrease

from each of the previous years, as will be seen from the following table:

	1909.	1910.	1911.	Total.
Inspections made.....	7,235	5,236	5,282	17,753
Children employed:				
Legally.....	2,949	2,461	2,253	7,663
Illegally (14 to 16 years without certificate).....	2,365	1,660	1,154	5,179
Illegally (under 14 years).....	756	711	421	1,888
Total.....	<u>6,070</u>	<u>4,832</u>	<u>3,828</u>	<u>14,730</u>
Percentage illegally employed:				
14 to 16 years without certificates.....	38.9	34.3	30.2	.....
Under 14 years.....	12.5	14.7	10.9	.....
Total.....	<u>51.4</u>	<u>49.0</u>	<u>41.1</u>	.....

These figures are interesting if we study them carefully. We find that the number of inspections for the year 1909-1910 were 27.6 per cent less than 1908-1909, while the number of all children found employed for the same year was 20.3 per cent less and the percentage of children illegally employed practically remained the same, falling from 51.4 to 49.0 per cent. Comparing the inspections made in the years 1909-1910 and 1910-1911, they remained about the same, being 27.6 per cent less for 1909-1910, and 26.9 for 1910-1911, than in 1908-1909; while the number of all children employed dropped 20.3 in 1909-1910, and 36.9 in 1910-1911, from the number found employed in 1908-1909. During the same period the percentage of children illegally employed dropped from 51.4 per cent in the year 1908-1909, to 49.0 per cent in 1909-1910, and to 41.1 per cent in 1910-1911, showing a falling off of 10.3 per cent between the year 1908-1909 and 1910-1911, although the amendment to the law regarding places of amusement and bowling alleys which went into effect October 1, 1910, increased the jurisdiction of the bureau as to the employment of children to the extent that during the past year the number of children found employed in places of amusement and bowling alleys amounted to 11.6 per cent of all the children found illegally employed. The improvement regarding the illegal employment of child labor in mercantile and other establishments, mentioned in section 161, has been considerable. To what extent it has improved would be hard to estimate, as we cannot completely cover the district in one year. While the figures of the bureau show an average for the three years of 47.1 per cent of children illegally employed, it is safe to assume, from the experience of

this bureau, that the percentage would be well over 41.1 per cent, as shown for the past year, if we had a sufficient number of inspectors to cover the territory and inspect all places. It is questionable if this large percentage of illegal child labor can be decreased until the bureau is provided with an adequate force of inspectors.

HOURS OF LABOR.

There were issued during the year 298 orders to cease employing children before 8 a. m. or after 7 p. m., more than nine hours a day or 54 hours per week, and 309 compliances were secured. There were 394 orders issued to cease employing females from 16 to 21 years, more than ten hours per day or sixty hours per week, or after 10 p. m., and 416 compliances were secured. There has been an increase in the number of orders issued during this year over each of the previous years, regarding hours of labor both for children, 14 to 16 years, and females, 16 to 21 years, and while we have about the same ratio of compliances it must be borne in mind that the compliances are reported by the inspector after his second visit and he has questioned the employees regarding the hours of labor. In many instances they claim there has been a change in the hours when there has been no change. They do this in fear of losing their positions. During the year we have not secured evidence in any violation for more than ten hours per day, or more than sixty hours per week. In such cases we must rely on the testimony of the employee unless the inspector can prove that he has watched the employee for more than ten hours of any day, or sixty hours of any week. The reason why the employees do not furnish evidence regarding such violations is obvious. If they are working after 10 p. m. it is easy for the inspector to prove the violation. During the year there have been 28 such cases prosecuted, but even in cases of this kind the defendants resort to all kinds of defences, frequently claiming that the girl was through work and would not go home. Even in such cases an inspector must prove that the girl was actually engaged in selling merchandise after 10 p. m. In cases where children are employed before 8 a. m. and after 7 p. m., similar defences were resorted to, such as claiming that the boy was waiting for his mother or an older brother, or that he was through work at 7 p. m. but would not go home. For violation of employing children before 8 a. m. or after 7 p. m. we prosecuted 138 cases. In view of the excessive hours

worked by females in many mercantile establishments, and the difficulty that confronts us to compel a compliance with this section of the law, I would renew the recommendation made in the report of 1910 as to amending section 161, so as to shorten the period in which females 16 to 21 years of age are permitted to perform ten hours' work on all days other than Saturday; that no female be employed nor permitted to work more than six days or sixty hours in any one week; and that there shall be posted in a conspicuous place a notice stating the number of hours per day for each working day of the week, and the time such work begins and ends each day.

PROSECUTIONS.

On October 1, 1910, there were pending in Court 36 cases, all of which have been disposed of during the year; 5 were dismissed or acquitted in Special Sessions, 16 pleaded guilty and sentence was suspended, 5 were convicted and sentence suspended, 8 pleaded guilty and were fined, 2 were convicted and fined. The total amount of fines was \$205. During the year 1911 there were presented to the courts 550 cases for prosecution; in New York City, 414; Buffalo, 128; Rochester, 8. 479 of these were disposed of during the year, leaving 71 pending October 1, 1911. The violations and results of such prosecutions are shown in Table 4 above; 48 were dismissed by magistrates; 18 acquitted in Special Sessions; 1 withdrawn (defendant died); 233 pleaded guilty and sentence was suspended; 76 pleaded guilty and were fined; 66 were convicted and sentence was suspended; 37 were convicted and fined; amount of fines imposed \$2,455, making a total of \$2,660 in fines imposed during the year. While there were more cases disposed of this year than last, there was \$705 less in fines imposed. In 453 of the 515 cases disposed of during the year, the evidence was conclusive, that is, the defendants either pleaded guilty or were tried and convicted; yet in only 133 cases were fines imposed. Of the cases begun during the year, 11 were alleged as second offenses; 6 under fourteen years; 4 without employment certificates and 1 employing female between 16 and 21 years after 10 p. m., and one was alleged as third offense of employing child under fourteen years. These figures show that enforcement of the law has not received the support from the courts that it should, and it is questionable if a

proper compliance with the provisions of the law can be established until the courts do their part.

In connection with bowling alleys and places of amusement it would be well to state that before we began to prosecute for the illegal employment of children in these places, we communicated with the manager of each theater in cities of the first class, and the several liquor dealers' associations in each of the said cities, advising the latter to inform all their members of the requirements of the law and stating that if violations of the law were found on and after a certain date, the persons employing such children would be prosecuted. Notwithstanding these measures taken to acquaint the proprietors of these establishments with the provisions of the law, there were found 184 children illegally employed, in the 357 places of amusement and bowling alleys inspected, as follows:

	UNDER 14 YEARS.		14-16 YEARS.		Total.
	Boys.	Girls.	Boys.	Girls.	
Places of amusement.....	15	2	53	2	72
Bowling alleys.....	38	.....	74	.....	112
Total.....	53	2	127	2	184

During the year there were presented to the court 59 cases for violation as to the employment of children under 14 years and after 7 p. m., in bowling alleys. In Buffalo: 21 violations, the result being that 15 were convicted, 5 pleaded guilty, none of which were fined; and in one case the defendant was discharged. Rochester: 5 violations, one fined and 4 dismissed, although the evidence was sufficient to convict the defendants in each case. New York City: 33 violations, 5 dismissed by a police magistrate, 4 acquitted in Special Sessions, 9 pleaded guilty or were convicted and fined, 10 pleaded guilty and sentence was suspended, and 5 are pending.

Another instance of the poor support given the law by the courts is shown in the condition of the public markets in the City of Buffalo. In two of these markets we found, during the past year, 84 children illegally employed, 40 under 14 years and 44 without employment certificates, and a large number with employment certificates working after 7 p. m. In these two markets we brought 45 prosecutions against employers, and although all either pleaded guilty or were convicted, fines were imposed in only fourteen

cases, amounting to \$280, the result being that the conditions have not improved very much because the people doing business in the markets do not regard prosecution for violation of the law seriously, for when taken to court they are usually permitted to leave without a penalty being imposed. Returning to their place of business they are ready to take another chance at violating the law. This is very discouraging to the inspector who is endeavoring to enforce the law, especially when this bureau is compelled not only to secure evidence of age of the child, but are compelled to prove just what labor the child was performing, in order to establish a violation. There were 3,363 hours consumed in prosecuting the 550 cases presented to the courts during the year, or an average of 6.11 hours per case.

FIRE PREVENTION.

In the report of the last year attention was called to the inadequate means of escape in case of fire, in many mercantile establishments. That report was written previous to the disastrous fire in the Asch Building in New York City, where 146 persons lost their lives. This terrible catastrophe focused public opinion on the present existing conditions, resulting in the passage of the law creating the Fire Prevention Bureau in New York City. This bureau will have jurisdiction in all buildings other than tenement houses. This gives some hope that in New York City, at least, the existing conditions relative to mercantile establishments may be remedied in the near future, while no provisions are made for the other cities of the state. In mercantile establishments the employees and patrons within the building equal or outnumber the employees in many of the largest of our factories. In these mercantile establishments the peril from fire or panic is ever present, with possibility in case of fire in such places, that the loss of life in the recent factory fires would be small, in comparison to the number that might be lost or injured by fire or panic in some mercantile establishments.

Respectfully submitted,

(Signed) JAMES L. GERSON,

Mercantile Inspector.

APPENDIX V.

INDEX OF BILLS AND LAWS RELATING TO LABOR IN THE LEGISLATIVE SESSION OF 1911.

Prepared by the Bureau of Labor Statistics.

[Explanation.—Only the principal purpose and final stage of each bill are indicated; identical bills in Senate and Assembly are recorded as one; bills enacted into law are described in italic type; numbers in parentheses are "Printed," the others "Introductory," numbers. Abbreviations used are: S. or Sen. for Senate, A. or Ass. for Assembly, and Com. for Committee.

For a review and the text of the labor laws enacted in 1911 see the Department of Labor Bulletin for June, 1911.]

ADMINISTRATION OF LABOR LAWS.

To provide for district supervising factory inspectors, and to increase the number of factory inspectors. Senator Bayne, S. 1027 (1166) and Mr. C. W. Phillips, A. 1411 (1687, S. 2052, A. 2590). Approved July 21, as Chapter 729.

To increase penalties for violation of the labor law, and to limit suspension of sentences for violations to one week. Senator Bayne, S. 1029 (1168, 1523, A. 2584) and Mr. C. W. Phillips, A. 1408 (1684). Approved July 24, as Chapter 749.

To provide special assistant district attorneys in counties of 100,000 inhabitants to prosecute violations of the labor law. Mr. Neupert, A. 324 (325). Labor and Industries Com.

To render penalties for violation of the labor law applicable to commissions appointed by law. Senator McManus, S. 678 (744) and Mr. Haines, A. 763 (844). Vetoed by the Governor.

To include "clerk or operator" in the definition of the term "employee" in the labor law. Senator McManus, S. 649 (709, 1408) and Mr. Jackson, A. 930 (1034). Passed Sen.; Ass. Labor and Industries Com.

HEALTH AND SAFETY.

FACTORIES.

To create a commission to investigate manufacturing in cities. Senator Wagner, S. 1463 (1810). Approved June 30, as Chapter 561.

To amend the law as to bakeries. Senator O'Brien, S. 803 (894, 1615, 1815, 1998) and Mr. Geatons, A. 1029 (1194, 1837, 2050). Approved July 10, as Chapter 637.

To create the office of State Fire Marshal for enforcement of laws for safety from fire outside of New York City. Senator T. D. Sullivan, S. 270 (277, 1690) and Mr. Hoey, A. 400 (409, 1456, 2356). Approved June 26, as Chapter 451.

To provide for a fire bureau in New York City for enforcement of laws relating to safety from fire. Senator T. D. Sullivan, S. 1096 (1261) and Mr. Hoey, A. 1565 (1891, 2411, 2457, S. 1958, S. 2098). Approved October 19, as Chapter 899.

To provide for enforcement of provisions as to safety from fire by fire commissioners in first class cities, and to provide fire drills in factories. Senator McManus, S. 1119 (1283). Cities Com.

Similar bill by Senator McManus, S. 1464 (1811, 1863) and Mr. Herrick, A. 1585 (1924, 2355, 2479, S. 1989). Not accepted by the Mayor.

To give the Fire Commissioner in New York City exclusive jurisdiction as to fire escapes. Mr. Friedman, A. 1289 (1520). Cities Com.

To require city authorities to inspect the means of egress from factories and see that they are made safe. Senator Frawley, S. 929 (1041, 1571). Third reading.

To provide increased protection in case of fire. Senator Bayne, S. 1022 (1161) and Mr. Jackson, A. 1405 (1681, S. 1819). Passed Ass.; Sen. Labor and Industries Com.

To amend law as to fire-escapes. Senator McManus, S. 1400 (1703, 2054) and Mr. Jackson, A. 1925 (2407). Passed Sen.; Ass. Labor and Industries Com.

To require fire drills and fire alarm systems in factories and mercantile establishments. Mr. Brooks, A. 318 (319, 1430, 1554). Passed Ass.; reported by Sen. Labor and Industries Com.

To provide that all theatres, school houses and factories shall be equipped with portable automatic fire extinguishers on each floor. Mr. Spielberg, A. 412 (417). General Laws Com.

To require fire-proof construction in new factories, lofts and office buildings three stories in height. Mr. Fry, A. 1335 (1574). Cities Com.

To prohibit lighted cigars and cigarettes from being carried into or used in factories. Mr. Goldberg, A. 1575 (1901). Codes Com.

To amend the law as to guards for machinery. Senator Saxe, S. 1288 (1520) and Mr. Herrick, A. 1776 (2201). Reported by Sen. Labor and Industries Com.; Ass. Labor and Industries Com.

To authorize the Commissioner of Labor, with the approval of the Governor, to establish rules as to guarding of machinery in factories. Senator Bayne, S. 1024 (1163) and Mr. C. W. Phillips, A. 1409 (1685, 2099, S. 2051). Vetoed by the Governor.

To authorize the Commissioner of Labor, with the approval of the Governor, to establish rules in regard to safety of tools, machinery and appliances on state work. Senator Bayne, S. 1028 (1167) and Mr. C. W. Phillips, A. 1410 (1686). Passed Ass.; Sen. Labor and Industries Com.

To amend law concerning elevator guards, stairs and doors in factories. Senator Bayne, S. 1023 (1162) and Mr. Jackson, A. 1403 (1679). Passed Ass.; Sen. Labor and Industries Com.

To create a bureau of public safety within the New York City fire department to have charge of the inspection of steam boilers. Mr. Hoey, A. 676 (712, 1358). Cities Com.

To amend the law as to ventilation. Senator McManus, S. 898 (1019, 1614) and Mr. Boylan, A. 1256 (1480). Reported by Sen. Labor and Industries Com.; Ass. Labor and Industries Com.

To require increase of cubic air space per employee to 500 cubic feet in daytime and 600 cubic feet at night. Senator Sanner, S. 1034 (1173, 1953) and Mr. Schifferdecker, A. 1364 (1620). Passed Sen.; Ass. Labor and Industries Com.

To make proper lighting of factories mandatory, instead of discretionary with the Commissioner of Labor. Mr. Kopp, A. 893 (992). Labor and Industries Com.

To provide that all laundries employing five or more persons shall be deemed factories. Senator Bayne, S. 1025 (1164, 2055) and Mr. Jackson, A. 1404 (1680). Vetoed by the Governor.

To create a commission to inquire into the conditions of tenement manufacturing. Senator Burd, S. 1309 (1557) and Mr. Chanler, A. 954 (1058, 1862, S. 2267). Passed Ass.; Sen. Finance Com.

MINES AND QUARRIES.

To amend the Labor Law, in relation to mines, quarries, tunnels and caissons. Senator Griffin, S. 891 (1008, 2255). Com. of the Whole.

BUILDING WORK.

To provide for safety rails and openings for scaffolds. Senator Bayne, S. 1026 (1165) and Mr. Jackson, A. 1406 (1682, 2235). Approved July 18, as Chapter 693.

To provide for safety of employees in caisson and tunnel work. Mr. C. W. Phillips, A. 1821 (2254). Labor and Industries Com.

RAILWAYS.

To give the Governor power to revoke at pleasure the appointment of conductors and brakemen as policemen. Mr. Patrie, A. 901 (1000, 2576). Approved July 28, as Chapter 817.

To provide full crews for steam railroad trains. Senator Gittins, S. 152 (153) and Mr. Jackson, A. 228 (230). Passed Ass.; Sen. Railroads Com.

Similar bill by Mr. Jackson, A. 23 (23). Railroads Com.

To provide full crew of five men for steam railroad engines in yard and terminal service. Mr. Jackson, A. 1176 (1386). Railroads Com.

To require engine crews of two men on electric trains. Mr. Kennedy, A. 1351 (1607). Electricity, Gas and Water Com.

To require street railways to equip their cars with emergency brakes. Mr. Ebbetts, A. 1328 (1567). Railroads Com.

To provide that caboose cars shall be 24 feet long and equipped with two four-wheel trucks. Mr. Hearn, A. 209 (210). Railroads Com.

Similar bill by Senator Ramsperger, S. 285 (292) and Mr. C. W. Phillips, A. 361 (369). Vetoed by the Governor.

To prohibit signalmen, telegraph or telephone operators under 21 years of age from serving in a signal tower or public railroad station. Senator Roosevelt, S. 1105 (1270) and Mr. Evans, A. 31 (31, 2091). Vetoed by the Governor.

PUBLIC UTILITIES.

To authorize the Public Service Commission to investigate the causes of all accidents occurring in connection with gas, electric, telephone and telegraph corporations. Senator Bayne, S. 1031 (1170) and Mr. Jackson, A. 1407 (1683). Passed Sen.; Ass. Railroads Com.

MISCELLANEOUS.

To provide for reports by physicians to Bureau of Labor Statistics of certain industrial diseases. Mr. Foley, A. 164 (165, 1111). Approved June 6, as Chapter 258.

To incorporate the American Museum of Safety. Senator Wainwright, S. 655 (715). Approved May 19, as Chapter 152.

To provide for licensing of handlers or users of explosives by the Commissioner of Labor. Senator McManus, S. 679 (745). Labor and Industries Com.

WOMAN AND CHILD LABOR.

To amend the law relating to employment of children in mercantile establishments. Senator McManus, S. 922 (1036, 2067) and Mr. Boylan, A. 1336 (1575, 2380, 2506, 2544). Approved July 29, as Chapter 866.

To prohibit males under 18 years of age and all females from working more than nine hours in one day or fifty-four hours in one week in any factory. Mr. Jackson, A. 260, (262, 833). Passed Ass.; Sen. Com. of the Whole.

To prohibit the employment of children under 14 years of age in tenement manufacturing. Senator McClelland, S. 446 (476). Labor and Industries Com.

To prohibit any person or firm from directing any girl under 18 years of age to apply for work to any employer until his character has been thoroughly investigated. Senator Black, S. 541 (547) and Mr. Gerken, A. 747 (819). Sen. Com. of the Whole; Ass. Labor and Industries Com.

To permit males between 14 and 16 years of age to carry newspapers between 4:30 and 7 A. M. Senator Loomis, S. 1076 (1235) and Mr. Neupert, A. 1490 (1776). Sen. Labor and Industries Com.; Ass. Labor and Industries Com.

HOURS OF WORK.

HOURS.

To extend limitation on working hours of drug clerks from first class cities to entire state. Senator Ferris S. 487 (520, 1671, 1762) and Mr. Allen, A. 679 (741). Approved July 10, as Chapter 630.

To extend the eight-hour law to engineers, firemen and any persons employed in mechanical trades in state institutions. Mr. C. W. Phillips, A. 428 (433). Labor and Industries Com.

To exempt from the eight-hour law asphalt work in cities and villages, involving the use of hot asphalt delivered, or in transit, to site of the work within the eight-hour period. Senator Cullen, S. 1277 (1510) and Mr. McKeon, A. 1779 (2204). Sen. Labor and Industries Com.; Ass. Labor and Industries Com.

To make notice from disbursing officer who makes payments on a public contract necessary to render a contract void for violation of the eight-hour law. Senator Frawley, S. 1556 (2011). Labor and Industries Com.

To require notice to be given to the commissioner of labor within 24 hours when more than eight hours per day are required on public work in case of extraordinary emergency. Senator McManus, S. 856 (967). Labor and Industries Com.

To make the eight-hour law apply to workmen-employed and materials used regardless of where the work is done. Mr. Sullivan, A. 486 (937). Labor and Industries Com.

To require compensation of state and local government per diem employees for holidays, with double pay when work is done on such holidays and extra compensation for work beyond eight hours in any day. Mr. Hoey, A. 683 (745, 1253, 1429). Vetoed by the Governor.

Similar bill applying to New York City only. Mr. Hoey, A. 661 (697, 1359, 1555). Passed Ass.; Sen. Cities Com.

To require compensation of per diem employees of New York City for holidays. Mr. Cuvillier, A. 533 (550). Cities Com.

HOLIDAYS.

To designate St. Patrick's day as a holiday. Mr. Cuvillier, A. 844 (935). Judiciary Com.

To designate Good Friday as a public holiday. Senator Thomas, S. 1211 (1413) and Mr. Delano, A. 1760 (2187). Sen. Judiciary Com.; Ass. Judiciary Com.

SUNDAY WORK.

To provide that such Sunday labor as is now authorized by law may not, extraordinary emergency excepted, be performed except by those who have taken 24 consecutive hours of rest in the six days next preceding. Mr. Geatons, A. 1137 (1324). Codes Com.

To prohibit the shining of shoes after 3 P. M. on Sunday. Mr. Boylan, A. 829 (920, 1074, S. 1955). Passed Ass.; tabled in Sen.

Similar bill by Mr. Boylan, A. 77 (77). Codes Com.

To prohibit Sunday delivery of ice beyond seller's premises. Senator Black, S. 1156 (1342). Codes Com.

To legalize Sunday labor by those who observe Saturday as the Sabbath. Mr. A. J. Levy, A. 114 (115, 734). Codes Com.

Similar bill by Mr. Oliver A. 19 (19). Codes Com.

To authorize the sale of uncooked meats on Sunday forenoon by retailers who observe the seventh day as the Sabbath. Mr. Heyman, A. 767 (848). Codes Com.

To provide for an investigation of sumptuary, including Sunday laws. Mr. Graubard, A. 833 (924). Ways and Means Com.

LEGAL RIGHTS.

EMPLOYERS' LIABILITY FOR ACCIDENTS.

Concurrent resolution to amend the state constitution enabling the Legislature to provide for compensation to injured workmen. Senator Bayne, S. 1216 (1418, 2022) and Mr. Jackson, A. 1676 (2064). Sen. Judiciary Com.; Ass. Judiciary Com.

Concurrent resolution to amend the state constitution so as to permit the Legislature to provide for workmen's compensation and insurance. Mr. Jackson, A. 1638 (1995). Passed Ass.; Sen. Judiciary Com.

Concurrent resolution to amend the state constitution enabling the Legislature to provide by law for compensation to injured workmen. Senator

Saxe, S. 1019 (1158) and Mr. W. R. Herrick, A. 1424 (1700). Passed Sen.; Ass. Judiciary Com.

To abolish negligence of fellow servant as bar to recovery. Mr. McGrath, A. 1263 (1496). Labor and Industries Com.

Similar bill by Mr. McGrath, A. 1264 (1497). Labor and Industries Com.

Similar bill by Mr. McGrath, A. 1223 (1444). Judiciary Com.

To provide that any one whose duty it is to give a signal for the movement of a train is a vice-principal of the employer. Mr. Jackson, A. 1184 (1399). Railroads Com.

To abolish contributory negligence as a bar to the recovery of damages where it is slight in comparison with the negligence of the defendant. Senator Burd, S. 399 (417) and Mr. Wende, A. 451 (460). Sen Codes Com.; Ass. Codes Com.

To provide that in negligence actions the occurrence of the accident shall be deemed presumptive evidence of the negligence of the employer. Senator Black, S. 1445 (1770). Stricken from Calendar.

To provide in negligence cases for inspection of the machinery, place or premises where injuries were sustained. Senator Sanner, S. 730 (802) and Mr. Fry, A. 992 (1118, 2388). Passed Ass.; Sen. Codes Com.

To provide that in negligence cases no action can be maintained by an attorney, retained on a contingent contract, unless such contract shall have been acknowledged before a competent officer. Mr. Fry, A. 994 (1120). Judiciary Com.

To give the executor or administrator of a deceased employee a right of action for accidental injury to the employee whether the accident was the cause of death or not. Senator Pollock, S. 1225 (1442) and Mr. Warren, A. 1665 (2046). Sen. Com. of the Whole; Ass. Labor and Industries Com.

WAGES.

To amend the garnishee law so as to permit more than one execution against wages, earnings or salary but requiring that they shall be satisfied in order of priority in which they are presented. Senator Pollock, S. 547 (583, 1832) and Mr. Goldberg, A. 576 (598). Approved June 28, as Chapter 489.

Similar bill by Senator Travis S. 737 (809) and Mr. Ahern, A. 945 (1049). Sen. Codes Com.; Ass. Codes Com.

To provide that wages or salaries shall not be levied upon for payment of judgments recovered more than ten years prior to September 1, 1908. Senator Ramsperger, S. 476 (510) and Mr. Hearn, A. 588 (616, S. 1910). Approved June 29, as Chapter 532.

To require all persons engaged in lending money upon assignment of wages and salaries to register with the county clerk and to prohibit a charge of more than 18 per cent interest a year. Mr. Brooks, A. 1060 (1227, 1857, S. 2015). Approved July 8, as Chapter 626.

To require all persons engaged in lending money upon assignment of wages or salaries to be licensed by the superintendent of banks who shall determine the rate of interest on such loans at not to exceed 3 per cent a month. Senator Burd, S. 1381 (1664). Judiciary Com.

To prohibit loans on wages or salaries except by an employer to an employee. Senator Grady, S. 188 (192, 622, 700). Recalled from Governor.

To prohibit a greater interest charge than 2 per cent per month on loans in anticipation of salary or compensation. Mr. J. J. Herrick, A. 389 (398). Codes Com.

To require bonds of contractors for public work and to provide for liens of laborers or material men upon amount so secured. Senator Hinman, S. 833 (933) and Mr. Butler, A. 1225 (1446). Approved June 26, as Chapter 450.

To repeal above law and to provide for liens upon public moneys of laborers or material men on public work. Senator Grady, S. 1708 (2318). Approved October 6, as Chapter 873.

Bill similar to above by Senator Frawley, S. 1696 (2304). Third reading.

To make it permissive instead of mandatory upon the court to allow ten dollars as costs to a working woman in an action to recover wages earned. Mr. J. Levy, A. 1473 (1757). Passed Ass.; Sen. Com. of the Whole.

GOVERNMENT EMPLOYEES.

To create a retirement fund for all civil employees of the state, counties and cities. Mr. Brennan A. 530 (547, 1020). Ways and Means Com.

To provide that all state, county and city employees of one year's standing shall have a yearly vacation with pay, of not less than two weeks. Mr. Hoey, A. 147 (148, 723, 879, 2450)). Recalled from Governor.

To empower all cities in the state to grant ten weeks' pay to every per diem employee injured in the performance of his duties. Mr. Gillen, A. 189 (190). Cities Com.

Similar bill by Mr. McGrath, A. 191 (192). Passed Ass.; Sen Cities Com. To provide relief and pension fund for the street cleaning department in New York City. Senator O'Brien, S. 495 (529) and Mr. McGrath, A. 744 (814; S. 954, 1858; A. 2560). Approved July 28, as Chapter 839.

Similar bill by Mr. McGrath, A. 148 (149). Cities Com.

To create retirement fund for employees of New York City. Mr. Cuvillier, A. 234 (236). Cities Com.

To decrease from thirty-five to thirty years the length of service required for retirement of employees in New York City. Senator Grady, S. 496 (530) and Mr. Foley, A. 1801 (2230). Approved July 18, as Chapter 689.

To create a pension fund for stationary and marine steam engineers, janitor engineers, boiler tenders, oilers, firemen and stokers in the employ of New York City. Senator O'Brien, S. 616 (673) and Mr. Geatons, A. 995 (1121). Sen. Cities Com.; Ass. Cities Com.

To increase yearly salary of street sweepers in New York City from \$720 to \$840 with additional compensation for Sunday work and for all overtime in excess of forty-eight hours per week. Senator Frawley, S. 328 (337) and Mr. J. J. Herrick, A. 285 (286). Sen. Cities Com.; Ass. Cities Com.

To provide that all foremen of city laborers in New York City shall receive four dollars per day. Mr. Gillen, A. 1018, (1144). Cities Com.

To provide that day laborers in the employ of New York City shall receive three dollars per day and not less than \$800 per year if employed during any part of two hundred separate calendar days in the fiscal year. Mr. McGelligott, A. 621 (656, 980, 2036). Passed Ass.; Sen. Cities Com.

To provide extra pay for overtime work of drivers in the New York City street cleaning department, Mr. Gillen, A. 832 (923). Passed Ass.; Sen. Cities Com.

To prohibit forfeiture of pay of employees of New York City street cleaning department for breach of discipline. Mr. Walker, A. 327 (328). Cities Com.

To prohibit employees of New York city from being detailed to do work outside of their public duty. Mr. Foley, A. 1828 (2261). Cities Com.

To permit laborers in armories and arsenals to have an annual vacation of ten days with pay, at the discretion of the appointing officers. Mr. McGregor, A. 132 (133, 471). Passed Ass.; Sen. Com. of the Whole.

To provide increases in salaries of employees of state hospitals. Senator Ferris, S. 183 (187, 1201) and Mr. Manley, A. 269 (271, 765, 1865). Vetoed by the Governor.

To create a retirement fund for employees in state hospitals for the insane. Senator Ferris, S. 211 (215) and Mr. Manley, A. 295 (296, 1022). Passed Ass.; Sen. third reading.

To create a pension system for the officers and employees of state prisons. Senator McManus, S. 1659 (2247). Third reading.

To increase salaries of the assistant matron and guards at the state prison for women. Senator Hewitt, S. 793 (884) and Mr. Drummond 1482 (1780). Vetoed by the Governor.

To increase salaries in state prisons. Mr. Young, A. 21 (21). Int. Affairs Com.

To increase the compensation of prison guards. Senator Hewitt, S. 1109 (1274) and Mr. Drummond, A. 1502 (1788, 2149, S. 1837). Vetoed by the Governor.

To increase salaries of officers and employees in state reformatories. Senator Murtaugh, S. 562 (605, 1931). Vetoed by the Governor.

To provide that the compensation of employees in state reformatories shall be the same as that paid to similar employees in state prisons. Mr. Bush, A. 1196 (1411). Com. on Penal Inst.

To provide for semi-monthly payment of employees in public buildings in Erie County and Buffalo. Senator Ramsperger, S. 1184 (1373) and Mr. Jackson, A. 1599 (1947, 2418). Approved June 23, as Chapter 414.

PRISON LABOR.

To provide for payment of wages to prisoners. Senator Fiero, S. 142 (143, 858) and Mr. Trombly, A. 217 (218). Sen. Com. of the Whole; Ass. Com. on Penal Inst.

To amend the law as to sale of prison made goods. Senator Fiero, S. 140 (141) and Mr. Trombly, A. 215 (216). Sen. Com. of the Whole; Ass. Com. on Penal Inst.

To include prisoners in "jails, and other penal institutions" among those required to labor for the state. Senator Fiero, S. 141 (142, 859) and Mr. Trombly, A. 216 (217). Ass. Com. of the Whole; Sen. Com. on Penal Inst.

To exempt city and county almshouses from provisions requiring use of prison-made goods. Mr. Wheeler, A. 843 (934). Com. on Pub. Inst.

INDUSTRIAL EDUCATION.

To provide for the establishment of training schools in agriculture and related subjects. Senator Harte, S. 1676 (2279). Finance Com.

REGULATION OF TRADES OR OCCUPATIONS.

To provide for licensing of moving-picture operators in first-class cities. Mr. Walker, A. 1164 (1374, 1594). Approved June 6, as Chapter 252.

To strike out provision requiring operator of moving picture apparatus in New York city to be a citizen of the United States. Senator Frawley, S. 668 (727) and Mr. Higgins, A. 166 (167). Vetoed by the Governor.

To strike out requirement of six months' apprenticeship in order to secure license as moving picture machine operator in first-class cities. Senator Duhamel, S. 1578 (S. 2072). Vetoed by the Governor.

To increase the minimum age of chauffeurs from 18 to 21 years. Mr. J. J. Herrick, A. 1349 (1605). Int. Affairs Com.

To amend law for licensing of chauffeurs. Senator White, S. 937 (1068, 1783, 1852) and Mr. Evans, A. 1293 (1524). Approved June 28, as Chapter 491.

To provide that the term "chauffeur" shall apply to any person driving a motor vehicle. Senator Ferris, S. 245 (251). Int. Affairs Com.

To reduce license renewal fee of chauffeurs to one dollar. Senator Walters, S. 7 (7, 85) and Mr. T. K. Smith, A. 34 (34, 918, 1018). Passed Ass.; Sen. Com. on Int. Affairs.

Similar bill by Mr. Hoey, A. 652 (688). Com. on Int. Affairs.

To require all licensed chauffeurs to give bond of \$2,000 for payment of damages for injury to person or property caused by his negligence. Senator Bussey, S. 1063 (1222). Int. Affairs Com.

To prohibit a chauffeur from receiving a rebate from proprietor of a garage without consent of his employer. Mr. Walker, A. 329 (330). Codes Com.

To provide for annual publication and distribution of a list of licensed chauffeurs. Senator Gittins, A. 1627 (2180). Com. on Finance.

To provide for the licensing of stationary engineers and firemen. Senator Heacock, S. 315 (322) and Mr. Washburn, A. 780 (861). Sen. Labor and Industries Com.; Ass. Labor and Industries Com.

To provide for the licensing of gasfitters in cities of the first-class. Mr. Hoey, A. 1512 (1807). Cities Com.

To provide for the licensing of barbers. Mr. Jackson, A. 805 (895). Public Health Com.

To provide for the examination of journeymen plumbers. Mr. Dawson, A. 601 (629). Cities Com.

To provide for the registration of any employee in charge of any retail butcher's business or branch thereof. Senator McManus, S. 277 (284) and Mr. Boylan, A. 381 (390). Sen. Cities Com.; Ass. Cities Com.

INDUSTRIAL DISPUTES.

To provide for boards of conciliation and investigation to be appointed by the Commissioner of Labor on application of either party to an industrial dispute. Mr. Hoey, A. 618 (679). Labor and Industries Com.

To create a separate State Board of Mediation and Arbitration in place of the existing Bureau of Mediation and Arbitration in the Department of Labor. Mr. Ward, A. 1720 (2131). Labor and Industries Com.

To provide for an industrial commission in New York City to investigate labor conditions and wages and to investigate and arbitrate disputes. Mr. Cuvillier, A. 973 (1082). Cities Com.

To compel employers advertising for laborers to take place of strikers to state that strike exists. Mr. Gerhardt, A. 1387 (1664). Codes Com.

To legalize boycotts. Mr. Sullivan, A. 847 (938). Codes Com.

To prohibit compelling persons to refrain from joining a labor organization as a condition of securing employment, to legalize boycotts, to prohibit strike-breaking and the importation of non-resident labor by fraudulent inducements. Mr. Gerhardt, A. 462 (474). Labor and Industries Com.

To amend the Anti-Pinkerton law. Senator McManus S. 758 (839, 1256, 2201). Vetoed by the Governor.

UNEMPLOYMENT.

To make it a misdemeanor for false or misleading information to be furnished by an employment agency to applicants for employment. Senator Bayne, S. 1152 (1339, 1817) and Mr. Chanter, A. 1699 (2110, 2469). Approved June 30, as Chapter 575.

To amend the law relative to employment agencies. Senator Cullen, S. 296 (303, 949) and Mr. Brennan, A. 471 (483, 1348, 1915, 2151, 2352, 2465). Sen. Cities Com.; Ass. lost.

To provide that in case of revocation of license of employment agency, new license shall not be granted within three years. Mr. Graubard, A. 145 (146). Third reading.

To require employment agencies to inquire as to financial responsibility of those to whom applicants for employment are sent, with special reference to theatrical agencies. Senator Stilwell S. 386 (405, 1801) and Mr. Spielberg, A. 326 (327). Sen. Com. of the Whole; Ass. lost.

To exempt employment agencies licensed under the Business Law from the supervision and inspection of the commissioner of labor. Senator McManus, S. 650 (710) and Mr. J. J. O'Neill, A. 935 (1039). Passed Sen.; Ass. Labor and Ind. Com.

To create in the Department of Labor a Bureau of Public Employment Offices. Senator Bayne, S. 1118 (1282) and Mr. Jackson, A. 1534 (1826). Passed Sen.; Ass. Labor and Ind. Com.

To provide for a special deputy commissioner of the unemployed in the Department of Labor. Senator Cronin, S. 85 (86) and Mr. O'Connor, A. 63 (62). Sen. Labor and Ind. Com.; Ass. Labor and Ind. Com.

To create a municipal employment bureau in New York City. Mr. Cuvillier A. 972 (1081). Cities Com.

To provide for the creation and maintenance of a bureau of agricultural labor in the city of Buffalo. Senator Ramsperger, S. 1526 (1946). Vetoed by the Governor.

IMMIGRANT LABOR.

To provide that all persons conducting immigrant lodging houses shall procure a license from the commissioner of labor. Mr. Foley, A. 1703 (2114, 2476, S. 2039). Approved July 28, as Chapter 845.

To provide that all persons advertising as authorized to sell tickets for transportation to and from foreign countries shall procure a license from the

comptroller. Senator Bayne, S. 1348 (1629, 1782) and Mr. Foley A. 1704 (2115). Approved June 30, as Chapter 578.

To forbid the circulation of any misleading advertisement in regard to passage tickets. Senator Bayne, S. 1149 (1336, 1524) and Mr. Foley, A. 1708 (2119, 2475). Approved June 23, as Chapter 415.

To prohibit any hotel proprietor, guide, or porter from soliciting the surrender by any immigrant passenger of a transportation ticket. Senator Bayne, S. 1346 (1627, 1847) and Mr. Foley, A. 1707 (2118, 2501). Approved June 29, as Chapter 540.

To reduce from \$10,000 to \$5,000 the deposit with the comptroller by private bankers, if no business other than receiving money for transmission is conducted. Senator T. D. Sullivan, S. 1337 (1618, 1760). Approved June 21, as Chapter 393.

Similar bill by Senator T. D. Sullivan, S. 1229 (1446). Com. on Banks.

To reduce the bond required for private bankers outside cities from \$50,000 to \$25,000. Senator T. D. Sullivan, S. 716 (789) and Mr. M. A. O'Neil, A. 522 (539, 2386, 2419; S. 1940, S. 2112). Vetoed by the Governor.

To prohibit corporations, other than those subject to the banking laws, from receiving money for transmission. Senator T. D. Sullivan, S. 693 (760) and Mr. Foley A. 831 (922, 2410; S. 2145, S. 2410). Approved July 24, as Chapter 771.

To place express companies which transmit money under the private banking law. Senator Harte, S. 1013 (1150). Com. on Banks.

To transfer jurisdiction over private banking in first class cities from the comptroller to the banking department. Mr. Spielberg, A. 546 (563). Com. on Banks.

To require examination of private bankers by the comptroller. Senator Pollock, S. 651 (711) and Mr. Spielberg, A. 817 (906). Sen. Com. on Banks; Ass. Com. on Banks.

To provide for the establishment of state schools for immigrants at places where public works are under construction. Senator Gittins, S. 1551 (1996) and Mr. Shortt, A. 1595 (1934). Vetoed by the Governor.

MISCELLANEOUS.

To provide for an industrial directory to be issued by the Commissioner of Labor. Senator Burd, S. 1310 (1558) and Mr. Chanler, A. 1111 (1287). Approved June 30, as Chapter 565.

To create a state department of commerce and industry. Senator Cullen, S. 316 (323). Fin. Com.

To appropriate \$10,000 to complete the work of commission on employers' liability, etc. Senator Wainwright, S. 21 (21) and Mr. Jackson, A. 79 (79). Approved Feb. 14, as Chapter 2.

To provide for old age pensions. Senator Duhamel, S. 238 (243) and Mr. O'Connor, A. 312 (313). Sen. Fin. Com.; Ass. Ways and Means Com.

To provide a commission to investigate subject of old age pensions. Mr. Fry, A. 1685 (2073). Ways and Means Com.

To establish a commission to inquire into the condition, welfare distribution and industrial opportunities of unskilled laborers and of aliens. Mr. Fry, A. 1740 (2163). Ways and Means Com.

To create a commission to inquire into prices, etc. of food stuffs. Senator O'Brien, S. 1535 (1965). Approved July 28, as Chapter 787.

APPENDIX VI.

**LAWS RELATING TO LABOR IN FORCE JANUARY 1,
1912.**

COMPILED BY THE BUREAU OF LABOR STATISTICS.

[183]

NOTE.—The following compilation presents the several laws as they appear in the Consolidated Laws enacted in 1909 and 1910, or as since amended, in which case references to all amending acts are given. For references to the sources, both original acts and amendments, of the various provisions as enacted in the Consolidated Laws, see the similar compilation in the Annual Report of the Commissioner of Labor for 1909 (Appendix VI).

THE LABOR LAW.

CHAPTER 36 OF THE LAWS OF 1909, IN FORCE FEBRUARY 17, 1909. COMPILED
WITH AMENDMENTS TO JANUARY 1, 1912.

AN ACT relating to labor, constituting chapter thirty-one of the consolidated laws.

CHAPTER 31 OF THE CONSOLIDATED LAWS.

LABOR LAW.

- Article
1. Short title; definitions (§§ 1, 2).
 2. General provisions (§§ 3-21).
 3. Department of labor (§§ 40-48).
 4. Bureau of labor statistics (§§ 55-58).
 5. Bureau of factory inspection (§§ 60-68).
 6. Factories (§§ 70-96).
 7. Tenement-made articles (§§ 100-105).
 8. Bakeries and confectioneries (§§ 110-115).
 9. Mines, tunnels and quarries and their inspection (§§ 120-136).
 10. Bureau of mediation and arbitration (§§ 140-148).
 - 10-a. Bureau of industries and immigration (§§ 151-156). [*Added in 1910.*]
 11. Employment of women and children in mercantile establishments (§§ 160-173).
 12. Bureau of mercantile inspection (§§ 180-184).
 13. Convict-made goods and duties of commissioner of labor relative thereto (§§ 190-195).
 14. Employer's liability (§§ 200-212).
 - 14-a. Workmen's compensation in certain dangerous employments (§§ 215-219-g). [*Added in 1910. Unconstituted.*]
 15. Employment of children in street trades (§§ 220-226).
 16. Laws repealed; when to take effect (§§ 240, 241).

ARTICLE 1.

Short Title; Definitions.

- Section 1. Short title.
2. Definitions.

§ 1. Short title.—This chapter shall be known as the "Labor Law."

§ 2. Definitions.—Employee. The term "employee," when used in this chapter, means a mechanic, workingman or laborer who works for another for hire.

Employer. The term "employer," when used in this chapter, means the person employing any such mechanic, workingman or laborer, whether the owner, proprietor, agent, superintendent, foreman or other subordinate.

Factory. The term "factory," when used in this chapter, shall be construed to include also any mill, workshop, or other manufacturing or business establishment where one or more persons are employed at labor.

Mercantile Establishment. The term "mercantile establishment," when used in this chapter, means any place where goods, wares or merchandise are offered for sale.

Tenement House. The term "tenement house," when used in this chapter, means any house or building, or portion thereof, which is rented, leased, let or hired out, to be occupied, or is occupied as the home or residence of three families or more living independently of each other, and doing their cooking upon the premises, and having a common right in the halls, stairways, yards, water-closets or privies, or some of them, and for the purposes of this chapter shall be construed to include any building on the same lot with any dwelling house and which is used for any of the purposes specified in section one hundred of this chapter.

Whenever, in this chapter, authority is conferred upon the commissioner of labor, it shall also be deemed to include his deputies or a deputy acting under his direction.

"Tenant factory" is defined in § 94, *post*. The definition of "tenement house" here differs slightly from that in the Tenement House Law, ch. 61 of the Consolidated Laws, § 2.

A commercial ice house using machinery, etc., is a "factory:" *Rabe v. Consol. Ice Co.*, 151 U. S. C. C. A. 535 (1902). Bakeries and confectioneries are "factories:" see § 111, *post*.; also laundries, § 92, *post*.

ARTICLE 2.

General Provisions.

- Section 3. Hours to constitute a day's work.
4. Violations of the labor law.
 5. Hours of labor in brickyards.
 6. Hours of labor on street surface and elevated railroads.
 7. Regulation of hours of labor on steam surface and elevated railroads.
 8. Regulation of hours of labor of block system telegraph and telephone operators and signalmen on surface, subway and elevated railroads.
 9. Payment of wages by receivers.
 10. Cash payment of wages.
 11. When wages are to be paid.
 12. Penalty for violation of preceding section.
 13. Assignment of future wages.
 14. Preference in employment of persons upon public works.
 15. Labels, brands and marks used by labor organizations.
 16. Illegal use of labels, brands and marks, a misdemeanor; injunction proceedings.
 17. Seats for female employees.
 18. Scaffolding for use of employees.
 19. Inspection of scaffolding, ropes, blocks, pulleys and tackles in cities.
 20. Protection of persons employed on buildings in cities.
 - 20-a. Accidents to be reported [*Added in 1910*].
 21. Commissioner of labor to enforce provisions of article.

§ 3. Hours to constitute a day's work.—Eight hours shall constitute a legal day's work for all classes of employees in this state except those engaged in farm and domestic service unless otherwise provided by law. This section does not prevent an agreement for overwork at an increased compensation except upon work by or for the state or a municipal corporation, or by contractors or subcontractors therewith. Each contract to which the state or a municipal corporation or a commission appointed pursuant to law is a party which may involve the employment of laborers, workmen or mechanics shall contain a stipulation that no laborer, workman or mechanic in the employ of the contractor, subcontractor or other person doing or contracting to do the whole or a part of the work contemplated by the contract shall

be permitted or required to work more than eight hours in any one calendar day except in cases of extraordinary emergency caused by fire, flood or danger to life or property. The wages to be paid for a legal day's work as hereinbefore defined to all classes of such laborers, workmen or mechanics upon all such public works, or upon any material to be used upon or in connection therewith, shall not be less than the prevailing rate for a day's work in the same trade or occupation in the locality within the state where such public work on, about or in connection with which such labor is performed in its final or completed form is to be situated, erected or used. Each such contract hereafter made shall contain a stipulation that each such laborer, workman or mechanic, employed by such contractor, subcontractor or other person on, about or upon such public work, shall receive such wages herein provided for. Each contract for such public work hereafter made shall contain a provision that the same shall be void and of no effect unless the person or corporation making or performing the same shall comply with the provisions of this section; and no such person or corporation shall be entitled to receive any sum nor shall any officer, agent or employee of the state or of a municipal *corporation pay the same or authorize its payment from the funds under his charge or control to any such person or corporation for work done upon any contract, which in its form or manner of performance violates the provisions of this section, but nothing in this section shall be construed to apply to persons regularly employed in state institutions, or to engineers, electricians and elevator men in the department of public buildings during the annual session of the legislature, nor to the construction, maintenance and repair of highways outside the limits of cities and villages. [As amended by L. 1909, ch. 292.]

The Legislature is expressly empowered to regulate conditions of employment on public work by the State Constitution, Article XII, § 1 (given under PUBLIC WORKS AND CONTRACTS, *post*).

The constitutionality of the section was sustained in 1904, so far as it relates to the *direct* employees of the state or of a municipality: *Ryan v. City of New York*, 177 N. Y. 271. The section is constitutional under both State and Federal constitutions: *People ex rel. Williams Engineering and Contracting Co. v. Metz*, 193 N. Y. 148 (1908). The United States Supreme Court has affirmed the constitutionality of a similar statute of Kansas (*Atkins v. Kansas*, 191 U. S. 207), and the eight-hour law of the United States (*Ellis v. U. S.*, 27 Sup. Ct. Rep. p. 600, 1907).

The section applies only to *public work* and not to "articles of common merchandise," or to "marketable commodities," like gas and electricity: *Downey v. Bender*, 57 App. Div. 310 (1901); see also the Attorney-General's opinion of June 26, 1906 (Report of Commissioner of Labor, 1906, Appendix V). The section does not apply to the manufacture of materials purchased by a contractor for public work: *Bohnen v. Metz*, 126 App. Div. 807, affirmed, 193 N. Y. 676. But an opinion of the Attorney-General (1909) holds that the section does apply to work such as the manufacture of a fire escape done by a contractor in his own factory (Report of the Commissioner of Labor, 1909, p. 307.)

An armory is a state "institution" and therefore exempt from the provisions of the section: *Matter of Burns v. Fox*, 98 App. Div. 507 (Nov. 1904). Firemen are not "employees" within the meaning of the statute, which relates only to *mechanics* or *laborers* working for hire: *Sweeney v. Sturgis*, 78 App. Div. 460, affirmed (May, 1903) 175 N. Y. 8. The wages clause does not apply to school janitors: *Farrell v. Board of Education*, 113 App. Div. 405.

"Extraordinary emergency" is defined in *United States v. Sheridan Kirk Contract Co.*, U. S. Dist. Court, 149 Fed. Rep. 813; *Penn Bridge Co. v. United*

* So in original.

States, Court of Appeals of D. C., 35 Wash. Law Reporter, 287. As to what constitutes overtime in case of emergency work on part of employees of municipal department of water supply, see *Grady v. City of New York*, 182 N. Y. 18 (May 30, 1905). The commissioner of labor is not empowered to issue permits for emergency work: opinion of Attorney-General in Appendix VII, *post*.

The prevailing-rate-of-wages clause does not apply to work done out of the state for a New York contractor: *Ewen v. Thompson-Starrett Co.*, 71 Misc. 171.

§ 4. **Violations of the labor law.**—Any officer, agent or employee of this state or of a municipal corporation therein having a duty to act in the premises who violates, evades or knowingly permits the violation or evasion of any of the provisions of this chapter shall be guilty of malfeasance in office and shall be suspended or removed by the authority having power to appoint or remove such officer, agent or employee; otherwise by the governor. Any citizen of this state may maintain proceedings for the suspension or removal of such officer, agent or employee or may maintain an action for the purpose of securing the cancellation or avoidance of any contract which by its terms or manner of performance violates this chapter or for the purpose of preventing any officer, agent or employee of such municipal corporation from paying or authorizing the payment of any public money for work done thereupon.

See notes to § 3; also § 21, *post*; and Penal Law, § 1271, subd. 1, under PENALTIES FOR VIOLATION OF THE LABOR LAW, *post*.

§ 5. **Hours of labor in brickyards.**—Ten hours, exclusive of the necessary time for meals, shall constitute a legal day's work in the making of brick in brickyards owned or operated by corporations. No corporation owning or operating such brickyard shall require employees to work more than ten hours in any one day, or to commence work before seven o'clock in the morning. But overwork and work prior to seven o'clock in the morning for extra compensation may be performed by agreement between employer and employee.

Violation a misdemeanor: Penal Law, § 1271, subd. 3.

§ 6. **Hours of labor on street surface and elevated railroads.**—Ten consecutive hours' labor, including one-half hour for dinner, shall constitute a day's labor in the operation of all street surface and elevated railroads, of whatever motive power, owned or operated by corporations in this state, whose main line of travel or whose routes lie principally within the corporate limits of cities of the first and second class. No employee of any such corporation shall be permitted or allowed to work more than ten consecutive hours, including one-half hour for dinner, in any one day of twenty-four hours.

In cases of accident or unavoidable delay, extra labor may be performed for extra compensation.

Violation a misdemeanor: Penal Law, § 1271, subd. 2. Under former law, violation was not a crime: *People v. Phyfe*, 10 Crim. 246.

§ 7. **Regulation of hours of labor on steam surface and elevated railroads.**—Ten hours' labor, performed within twelve consecutive hours, shall constitute a legal day's labor in the operation of steam surface and elevated railroads owned and operated within this state, except where the mileage system of running trains is in operation. But this section does not apply to the performance of extra hours of labor by conductors, engineers, firemen and trainmen in case of accident or delay resulting therefrom. For each hour of

labor performed in any one day in excess of such ten hours, by any such employee, he shall be paid in addition at least one-tenth of his daily compensation.

No person or corporation operating a line of railroad of thirty miles in length or over, in whole or in part within this state, shall permit or require a conductor, engineer, fireman or trainman, who has worked in any capacity for twenty-four consecutive hours, to go again on duty or perform any kind of work, until he has had at least eight hours' rest.

Violation a misdemeanor (Penal Law, § 1271, subd. 4); also evidence of negligence in action for personal injuries sustained by employee, *Pellin v. N. Y. C. & H. R. R. Co.*, 102 App. Div. 71 (1905).

§ 8. Regulation of hours of labor of block system telegraph and telephone operators and signalmen on surface, subway and elevated railroads.—The provisions of section seven of this chapter shall not be applicable to employees mentioned herein. It shall be unlawful for any corporation or receiver, operating a line of railroad, either surface, subway or elevated, in whole or in part in the state of New York, or any officer, agent or representative of such corporation or receiver to require or permit any telegraph or telephone operator who spaces trains by the use of the telegraph or telephone under what is known and termed the "block system" (defined as follows): Reporting trains to another office or offices or to a train dispatcher operating one or more trains under signals, and telegraph or telephone levermen who manipulate interlocking machines in railroad yards or on main tracks out on the lines or train dispatchers in its service whose duties substantially, as hereinbefore set forth, pertain to the movement of cars, engines or trains on its railroad by the use of the telegraph or telephone in dispatching or reporting trains or receiving or transmitting train orders as interpreted in this section, to be on duty for more than eight hours in a day of twenty-four hours, and it is hereby declared that eight hours shall constitute a day of employment for all laborers or employees engaged in the kind of labor aforesaid; except in cases of extraordinary emergency caused by accident, fire, flood or danger to life or property, and for each hour of labor so performed in any one day in excess of such eight hours, by any such employee, he shall be paid in addition at least one-eighth of his daily compensation. Any person or persons, company or corporation, who shall violate any of the provisions of this section, shall, on conviction, be fined in the sum of not less than one hundred dollars, and such fine shall be recovered by an action in the name of the state of New York, for the use of the state, which shall sue for it against such person, corporation or association violating this section, said suit to be instituted in any court in this state having appropriate jurisdiction. Such fine, when recovered as aforesaid, shall be paid without any deduction whatever, one-half thereof to the informer, and the balance thereof to be paid into the free school fund of the state of New York. The provisions of this section shall not apply to any part of a railroad where not more than eight regular passenger trains in twenty-four hours pass each way; provided, moreover, that where twenty freight trains pass each way generally in each twenty-four hours then the provisions of this section shall apply, notwithstanding that there may pass a less number of passenger trains than hereinbefore set forth, namely eight.

The section is constitutional as a proper exercise of the police power and does not conflict with the U. S. law on the same subject: *New York v. Erie R. R. Co.*, 198 N. Y. 369.

§ 9. Payment of wages by receivers.— Upon the appointment of a receiver of a partnership or of a corporation organized under the laws of this state and doing business therein, other than a moneyed corporation, the wages of the employees of such partnership or corporation shall be preferred to every other debt or claim.

See also Debtor and Creditor Law, ch. 12 of the Consolidated Laws, §§ 27, 28, and Lien Law, § 13.

Term "employees" includes operatives and laborers (*Palmer v. Van Santvoord*, 153 N. Y. 612), traveling salesmen (*Matter of Fitzgerald*, 21 Misc. 226), book-keepers employed at salary of \$100 a month (*People v. Beveridge Brewing Co.*, 91 Hun 313, and *Matter of Luxton & Black Co.*, 35 App. Div. 243), etc.

Term "wages" does not cover amounts credited to employees under a system of profit sharing (*Dolge v. Dolge*, 70 App. Div. 517).

§ 10. Cash payment of wages.— Every manufacturing, mining, quarrying, mercantile, railroad, street railway, canal, steamboat, telegraph and telephone company, every express company, every corporation engaged in harvesting and storing ice, and every water company, not municipal, and every person, firm or corporation, engaged in or upon any public work for the state or municipal corporation thereof, either as a contractor or a subcontractor therewith, shall pay to each employee engaged in his, their or its business the wages earned by such employee in cash. No such company, person, firm or corporation shall hereafter pay such employees in scrip, commonly known as store money-orders. No person, firm or corporation engaged in carrying on public work under contract with the state or with any municipal corporation of the state, either as a contractor or subcontractor therewith, shall, directly or indirectly, conduct or carry on what is commonly known as a company store, if there shall, at the time, be any store selling supplies within two miles of the place where such contract is being executed. Any person, firm or corporation violating the provisions of this section shall be guilty of a misdemeanor.

Penalty: See § 12, *post*, and Penal Law, § 1272, *post*.

On subject of constitutionality, see *Knoxville Iron Co. v. Harbison*, 183 U. S. 13, in which the United States Supreme Court sustained the Tennessee anti-truck law.

Payment by check is not a compliance with the section. (*Opinion of Attorney-General in his report for 1899*, p. 335).

§ 11. When wages are to be paid.— Every corporation or joint-stock association, or person carrying on the business thereof by lease or otherwise, shall pay weekly to each employee the wages earned by him to a day not more than six days prior to the date of such payment.

But every person or corporation operating a steam surface railroad shall, on or before the first day of each month, pay the employees thereof the wages earned by them during the first half of the preceding month ending with the fifteenth day thereof, and on or before the fifteenth day of each month pay the employees thereof the wages earned by them during the last half of the preceding calendar month.

Penalty: See § 12, *post*, and Penal Law, § 1272.

The semi-monthly pay law in the second paragraph of this section is constitutional as within the reserved power of the state to amend corporate charters: *N. Y. C. R. R. Co. v. Williams*, 199 N. Y. 108.

Any corporation operating a steam surface railroad and also engaged in mining or any other business than the operation of such surface railroad must pay its employees not engaged in operating such road in accordance with the general provisions of this section. (*Opinion of Attorney-General*, June 4, 1906.) Does not apply to a municipal corporation. (*People ex rel. Van Valkenburg v. Myers*, 33 N. Y. St. Rep. 18; *People v. City of Buffalo*, 57 Hun 577.)

§ 12. **Penalty for violation of preceding section.**—If a corporation or joint-stock association, its lessee or other person carrying on the business thereof, shall fail to pay the wages of all its employees as provided in this article, it shall forfeit to the people of the state the sum of fifty dollars for each such failure, to be recovered by the commissioner of labor in his name of office in a civil action. [*As am'd by L. 1909, ch. 206.*]

Violation also a misdemeanor: Penal Law, § 1272.

§ 13. **Assignment of future wages.**—No assignment of future wages, payable weekly, or monthly in case of a steam surface railroad corporation, shall be valid if made to the corporation or association from which such wages are to become due, or to any person on its behalf, or if made or procured to be made to any person for the purpose of relieving such corporation or association from the obligation to pay weekly, or monthly in case of a steam surface railroad corporation. Charges for groceries, provisions or clothing shall not be a valid off-set for wages in behalf of any such corporation or association. No such corporation or association shall require any agreement from any employee to accept wages at other periods than as provided in this article as a condition of employment.

See Personal Property Law, § 42, under "Assignment of wages" under POLITICAL AND LEGAL RIGHTS, ETC., *post*.

§ 14. **Preference in employment of persons upon public works.**—In the construction of public works by the state or a municipality, or by persons contracting with the state or such municipality, only citizens of the United States shall be employed; and in all cases where laborers are employed on any such public works, preference shall be given citizens of the state of New York. In each contract for the construction of public works a provision shall be inserted, to the effect that, if the provisions of this section are not complied with, the contract shall be void. All boards, officers, agents or employees of cities of the first class of the state, having the power to enter into contracts which provide for the expenditure of public money on public works, shall file in the office of the commissioner of labor the names and addresses of all contractors holding contracts with said cities of the state. Upon the letting of new contracts the names and addresses of such new contractors shall likewise be filed. Upon the demand of the commissioner of labor a contractor shall furnish a list of the names and addresses of all subcontractors in his employ. Each contractor performing work for any city of the first class shall keep a list of his employees, in which it shall be set forth whether they are naturalized or native born citizens of the United States, together with, in case of naturalization, the date of naturalization and the name of the court where such naturalization was granted. Such lists and records shall be open to the inspection of the commissioner of labor. A violation of this section shall constitute a misdemeanor and shall be punishable by a fine of not less than fifty dollars nor more than five hundred dollars, or by imprisonment for not less than thirty nor more than ninety days, or by both such fine and imprisonment.

The statute of 1894 making it a crime for a contractor with a municipal corporation for the construction of public works, to employ alien laborers thereon, was held in 1895 to be an unconstitutional invasion of personal rights and also a violation of a treaty of the United States with Italy: *People v. Warren*, 13 Misc. 615. The present law has recently (1911) been held constitutional in the County Court of Orleans Co. in *People v. Ludington's Sons*. See also opinion of Attorney-General in Appendix VII. *post*.

As to the preference clause, see *City of Chicago v. Huribut*, 68 N. E. 786 (1903); but Massachusetts enacted a law giving preference to resident labor in 1904 (ch. 311).

§ 15. Labels, brands and marks used by labor organizations.—A union or association of employees may adopt a device in the form of a label, brand, mark, name or other character for the purpose of designating the products of the labor of the members thereof. Duplicate copies of such device shall be filed in the office of the secretary of state, who shall, under his hand and seal, deliver to the union or association filing or registering the same a certified copy and a certificate of the filing thereof, for which he shall be entitled to a fee of one dollar. Such certificate shall not be assignable by the union or association to whom it is issued.

This act is constitutional and the infringement of a registered label will be restrained by injunction: *Perkins v. Heert*, 158 N. Y. 306.

§ 16. Illegal use of labels, brands and marks a misdemeanor; injunction proceedings.—A person who (1) shall in any way use or display the label, brand, mark, name or other character, adopted by any such union or association as provided in the preceding section, without the consent or authority of such union or association; or (2) shall counterfeit or imitate any such label, brand, mark, name or other character, or knowingly sells or disposes of, or keeps or has in his possession with intent to sell or dispose of, any goods, wares, merchandise or other products of labor, upon which any such counterfeit or imitation is attached, affixed, printed, stamped or impressed, or knowingly sells or disposes of, or keeps or has in his possession with intent to sell or dispose of any goods, wares, merchandise or other products of labor contained in any box, case, can or package, to which or on which any such counterfeit or imitation is attached, affixed, printed, painted, stamped or impressed, is guilty of a misdemeanor, and shall be punished by a fine of not less than one hundred dollars nor more than five hundred dollars, or by imprisonment for not less than three months nor more than one year, or by both such fine and imprisonment. After filing copies of such device, such union or association may also maintain an action to enjoin the manufacture, use, display or sale of counterfeit or colorable imitations of such device, or of goods bearing the same, or the unauthorized use or display of such device, or of goods bearing the same, and the court may restrain such wrongful manufacture, use, display or sale, and every unauthorized use or display by others of the genuine devices so registered and filed, if such use or display is not authorized by the owner thereof, and may award to the plaintiff such damages resulting from such wrongful manufacture, use, display or sale as may be proved, together with the profits derived therefrom.

Knowledge or intent is not an ingredient of an offense of counterfeiting a registered label: *Bulena v. Newman*, 10 Misc. 460. A colorable imitation of a union label, even though it have distinguishing words or names, contravenes this section: *Myrup v. Friedman*, 58 Misc. 323.

§ 17. Seats for female employees.—Every person employing females in a factory or as waitresses in a hotel or restaurant shall provide and maintain suitable seats for the use of such female employees, and permit the use thereof by such employees to such an extent as may be reasonable for the preservation of their health.

Violation is a misdemeanor: Penal Law, § 1273, *post*.

§ 18. Scaffolding for use of employees.—A person employing or directing another to perform labor of any kind in the erection, repairing, altering or painting of a house, building or structure shall not furnish or erect, or cause to be furnished or erected for the performance of such labor, scaffolding, hoists, stays, ladders or other mechanical contrivances which are unsafe, unsuitable or improper, and which are not so constructed, placed and operated as to give proper protection to the life and limb of a person so employed or engaged.

Scaffolding or staging swung or suspended from an overhead support, or erected with stationary supports, more than twenty feet from the ground or floor, except scaffolding wholly within the interior of a building and which covers the entire floor space of any room therein, shall have a safety rail of suitable material, properly bolted, secured and braced, rising at least thirty-four inches above the floor or main portions of such scaffolding or staging and extending along the entire length of the outside and the ends thereof, with such openings as may be necessary for the delivery of materials, and properly attached thereto, and such scaffolding or staging shall be so fastened as to prevent the same from swaying from the building or structure. [*As am'd by L. 1911, ch. 693.*]

Violation is a misdemeanor (Penal Law, § 1270, *post*), and renders master liable in case of injury to employees (§ 202, *post*).

The question of what constitutes a structure or a scaffold under this section is one to be decided according to the circumstances of each case and has led to numerous decisions. As to the general principles upon which these questions must be determined see *Caddy v. Interborough Rapid Transit Co.*, 195 N. Y. 415 (1909).

§ 19. Inspection of scaffolding, ropes, blocks, pulleys and tackles in cities.—Whenever complaint is made to the commissioner of labor that the scaffolding or the slings, hangers, blocks, pulleys, stays, braces, ladders, irons, or ropes of any swinging or stationary scaffolding used in the construction, alteration, repairing, painting, cleaning or pointing of buildings within the limits of a city are unsafe or liable to prove dangerous to the life or limb of any person, such commissioner of labor shall immediately cause an inspection to be made of such scaffolding, or the slings, hangers, blocks, pulleys, stays, braces, ladders, irons or other parts connected therewith. If, after examination, such scaffolding or any of such parts is found to be dangerous to life or limb, the commissioner of labor shall prohibit the use thereof, and require the same to be altered and reconstructed so as to avoid such danger. The commissioner of labor or deputy factory inspector making the examination shall attach a certificate to the scaffolding, or the slings, hangers, irons, ropes, or other parts thereof, examined by him, stating that he has made such examination, and that he has found it safe or unsafe, as the case may be. If he declares it unsafe, he shall at once, in writing, notify the person responsible for its erection of the fact, and warn him against the use thereof. Such notice may be served personally upon the person responsible for its erection, or by conspicuously affixing it to the scaffolding, or the part thereof declared to be unsafe. After such notice has been so served or affixed, the person responsible therefor shall immediately remove such scaffolding or part thereof and alter or strengthen it in such manner as to render it safe, in the

discretion of the officer who has examined it, or of his superiors. The commissioner of labor and any of his deputies whose duty it is to examine or test any scaffolding or part thereof, as required by this section, shall have free access, at all reasonable hours, to any building or premises containing them or where they may be in use. All swinging and stationary scaffolding shall be so constructed as to bear four times the maximum weight required to be dependent therefrom or placed thereon, when in use, and not more than four men shall be allowed on any swinging scaffolding at one time.

Violation is a misdemeanor (Penal Law, § 1277, *post*) and renders master liable in case of injury to employees (§ 202, *post*).

§ 20. Protection of persons employed on buildings in cities.—All contractors and owners, when constructing buildings in cities, where the plans and specifications require the floors to be arched between the beams thereof, or where the floors or filling in between the floors are of fire-proof material or brick-work, shall complete the flooring or filling in as the building progresses to not less than within three tiers of beams below that on which the iron work is being erected. If the plans and specifications of such buildings do not require filling in between the beams of floors with brick or fire-proof material all contractors for carpenter work, in the course of construction, shall lay the under-flooring thereof on each story as the building progresses to not less than within two stories below the one to which such building has been erected. Where double floors are not to be used, such contractor shall keep planked over the floor two stories below the story where the work is being performed. If the floor beams are of iron or steel, the contractors for the iron or steel work of buildings in course of construction or the owners of such buildings shall thoroughly plank over the entire tier of iron or steel beams on which the structural iron or steel work is being erected, except such spaces as may be reasonably required for the proper construction of such iron or steel work, and for the raising or lowering of materials to be used in the construction of such building, or such spaces as may be designated by the plans and specifications for stairways and elevator shafts. If elevators, elevating machines or hoisting apparatus are used within a building in the course of construction, for the purpose of lifting materials to be used in such construction, the contractors or owners shall cause the shafts or openings in each floor to be inclosed or fenced in on all sides by a barrier at least eight feet in height, except on two sides which may be used for taking off and putting on materials, and those sides shall be guarded by an adjustable barrier not less than three nor more than four feet from the floor and not less than two feet from the edge of such shaft or opening. If a building in course of construction is five stories or more in height, no lumber or timber needed for such construction shall be hoisted or lifted on the outside of such building. The chief officer, in any city, charged with the enforcement of the building laws of such city and the commissioner of labor are hereby charged with enforcing the provisions of this section and sections eighteen and nineteen, and said chief officer in any city charged with the enforcement of the building laws of such city shall have the same powers for the enforcement of these sections as are vested in the commissioner of labor. [*As am'd by L. 1911, ch. 693.*]

Violation is a misdemeanor (Penal Law, § 1277, *post*) and renders master liable in case of injury to employees (§ 202, *post*).

As to relative liability of owner and contractor, see *e. g. Rooney v. Brogan Construction Co.*, 194 N. Y. 32 (1909).

§ 20-a. **Accidents to be reported.**—The person in charge of any building, construction, excavating or engineering work of any description, including the work of repair, alteration, painting or renovating, shall keep a correct record of all deaths, accidents or injuries sustained by any person working thereon, in such form as may be required by the commissioner of labor. Such record shall be open to the inspection of the commissioner of labor and a copy thereof shall be furnished to the said commissioner on demand. Within forty-eight hours after the time of the accident, death or injury, a report thereof shall be made in writing to the commissioner of labor, stating as fully as possible the cause of the death or injury, and the place where the injured person has been sent, with such other or further information relative thereto as may be required by the said commissioner, who may investigate the causes thereof and require such precautions to be taken as will prevent the recurrence of similar happenings. No statement contained in any such report shall be admissible in evidence in any action arising out of the death or accident therein reported. [*Added by L. 1910, ch. 155.*]

Compare § 87 (factory accidents) and § 126 (mine and quarry accidents) *post*.

The section applies to house wrecking: opinion of Attorney-General in Appendix VII, *post*.

§ 21. **Commissioner of labor to enforce provisions of article.**—The commissioner of labor shall enforce all the provisions of this article. He shall investigate complaints made to him of violations of such provisions and if he finds that such complaints are well founded he shall issue an order directed to the person or corporation complained of, requiring such person or corporation to comply with such provisions. If such order is disregarded the commissioner of labor shall present to the district attorney of the proper county all the facts ascertained by him in regard to the alleged violation, and all other papers, documents or evidence pertaining thereto, which he may have in his possession. The district attorney to whom such presentation is made shall proceed at once to prosecute the person or corporation for the violations complained of, pursuant to this chapter and the provisions of the penal law. If complaint is made to the commissioner of labor that any person contracting with the state or a municipal corporation for the performance of any public work fails to comply with or evades the provisions of this article respecting the payment of the prevailing rate of wages, the requirements of hours of labor or the employment of citizens of the United States or of the state of New York, the commissioner of labor shall if he finds such complaints to be well founded, present evidence of such non-compliance to the officer, department or board having charge of such work. Such officer, department or board shall thereupon take the proper proceedings to revoke the contract of the person failing to comply with or evading such provisions.

ARTICLE 3.

Department of Labor.

Section 40. Commissioner of labor.

- 41. Deputy commissioners.
- 42. Bureaus.
- 43. Powers.
- 44. Salaries and expenses.
- 45. Sub-offices.
- 46. Reports.
- 47. Old records.
- 48. Counsel.

§ 40. **Commissioner of labor.**—There shall continue to be a department of labor the head of which shall be the commissioner of labor, who shall be appointed by the governor by and with the advice and consent of the senate and who shall hold office for a term of four years beginning on the first day of January of the year in which he is appointed. He shall receive an annual salary of five thousand five hundred dollars. He shall appoint all officers, clerks, and other employees in the department of labor. [*As am'd by L. 1911, ch. 729.*]

§ 41. **Deputy commissioners.**—The commissioner of labor shall forthwith upon entering upon the duties of his office appoint and may at pleasure remove two deputy commissioners of labor, who shall receive such annual salaries, not to exceed four thousand dollars and three thousand five hundred dollars, respectively, as may be appropriated therefor. The powers hereinafter conferred upon the first and second deputy commissioners shall not include the appointment of officers, clerks or other employees in any of the bureaus of the department of labor. [*As am'd by L. 1911, ch. 729.*]

§ 42. **Bureaus.**—The department of labor shall be divided into five bureaus as follows: Factory inspection, labor statistics, mediation and arbitration, industries and immigration, and mercantile inspection. [*As am'd by L. 1910, ch. 514.*]

§ 43. **Powers.**—1. The commissioner of labor, his deputies and their assistants and each special agent, deputy factory inspector, chief investigator, special investigators, mercantile inspector, or deputy mercantile inspectors may administer oaths and take affidavits in matters relating to the provisions of this chapter.

2. No person shall interfere with, obstruct or hinder by force or otherwise the commissioner of labor, his deputies, their assistants or the special agents, deputy factory inspectors, chief investigator, special investigators, the mercantile inspector, or deputy mercantile inspectors while in the performance of their duties, or refuse to properly answer questions asked by such officers pertaining to the provisions of this chapter, or refuse them admittance to any place where and when labor is being performed which is affected by the provisions of this chapter.

3. All notices, orders and directions of deputies, assistants, special agents, deputy factory inspectors, chief investigator, special investigators, the mercantile inspector, or deputy mercantile inspectors given in accordance with this chapter are subject to the approval of the commissioner of labor. And all acts, notices, orders, permits and directions by any provisions of this chapter directed to be performed or given by the factory inspector, chair-

man of the board of mediation and arbitration, chief investigator, special investigators, mercantile inspector or other officer of the department of labor may be performed or given by and in the name of the commissioner of labor and by any officer of the department thereunto duly authorized by such commissioner in the name of such commissioner.

4. The commissioner of labor may procure and cause to be used badges for himself and his subordinates in the department of labor while in the performance of their duties. [*As am'd by L. 1910, ch. 514.*]

§ 44. **Salaries and expenses.**—All necessary expenses incurred by the commissioner of labor in the discharge of his duties shall be paid by the state treasurer upon the warrant of the comptroller issued upon proper vouchers therefor. The reasonable and necessary traveling and other expenses of the deputy commissioners, their assistants, the special agents and statisticians, the deputy factory inspectors, chief investigator, the special investigators, the mercantile inspectors, deputy mercantile inspectors, and other field officers of the department while engaged in the performance of their duties shall be paid in like manner upon vouchers approved by the commissioner of labor and audited by the comptroller. [*As am'd by L. 1910, ch. 514.*]

§ 45. **Sub-offices.**—The commissioner of labor may establish and maintain a sub-office in any city if in his opinion it be necessary. He may designate any one or more of his subordinates to take charge of and manage any such office, subject to his direction. The reasonable and necessary expenses of such office shall be paid as are other expenses of the commissioner of labor. [*As am'd by L. 1911, ch. 729.*]

§ 46. **Reports.**—The commissioner of labor shall report annually to the legislature.

§ 47. **Old records.**—All statistics furnished to and all complaints, reports and other documentary matter received by the commissioner of labor pursuant to this chapter or any act repealed or superseded thereby may be destroyed by such commissioner after the expiration of six years from the time of the receipt thereof.

§ 48. **Counsel.**—The commissioner of labor may employ counsel in the department of labor to represent the department or to assist in the prosecution of actions or proceedings brought under the provisions of this chapter. Such counsel shall receive such compensation as may otherwise be provided by law.

§ 49. **Industrial directory.**—The commissioner of labor shall prepare annually an industrial directory for all cities and villages having a population of one thousand or more according to the last preceding federal census or state enumeration. Such directory shall contain information regarding opportunities and advantages for manufacturing in every such city or village, the factories established therein, hours of labor, housing conditions, railroad and water connections, water power, natural resources, wages and such other data regarding social, economic and industrial conditions as in the judgment of the commissioner would be of value to prospective manufacturers, and their employees. If a city is divided into boroughs the directory shall contain such information as to each borough. [*Added by L. 1911, ch. 565.*]

ARTICLE 4.

Bureau of Labor Statistics.

Section 55. Bureau of labor statistics.

56. Duties and powers.

57. Statistics to be furnished upon request.

58. Industrial poisonings to be reported. [*Added in 1911.*]

§ 55. Bureau of labor statistics.—There shall continue to be a bureau of labor statistics, which shall be under the immediate charge of a chief statistician, but subject to the direction and supervision of the commissioner of labor.

Cf. § 42, *ante*.

§ 56. Duties and powers.—The commissioner of labor shall collect, assort, systematize and present in annual reports to the legislature, statistical details in relation to all departments of labor in the state, especially in relation to the commercial, industrial, social and sanitary condition of workmen and to the productive industries of the state. He may subpoena witnesses, take and hear testimony, take or cause to be taken depositions and administer oaths.

Subpoena, how issued, Code of Civil Procedure, § 854; how served, *id.*, § 852; fees, *id.*, § 3318.

Duties and powers discussed, *People v. Peck*, 138 N. Y. 386, which held the Commissioner of Labor Statistics to be a public officer within the meaning of § 2050 of the Penal Law.

§ 57. Statistics to be furnished upon request.—The owner, operator, manager or lessee of any mine, factory, workshop, warehouse, elevator, foundry, machine shop or other manufacturing establishment, or any agent, superintendent, subordinate, or employee thereof, and any person employing or directing any labor affected by the provisions of this chapter, shall, when requested by the commissioner of labor, furnish any information in his possession or under his control which the commissioner is authorized to require, and shall admit him to any place where labor is carried on which is affected by the provisions of this chapter for the purpose of inspection. All statistics furnished to the commissioner of labor, pursuant to this article, may be destroyed by such commissioner after the expiration of two years from the time of the receipt thereof. A person refusing to admit such commissioner, or a person authorized by him, to any such establishment, or to furnish him any information requested, or who refuses to answer or untruthfully answers questions put to him by such commissioner, in a circular or otherwise, shall forfeit to the people of the state the sum of one hundred dollars for each refusal or untruthful answer given, to be sued for and recovered by the commissioner in his name of office. The amount so recovered shall be paid in to the state treasury.

§ 58. Industrial poisonings to be reported.—1. Every medical practitioner attending on or called in to visit a patient whom he believes to be suffering from poisoning from lead, phosphorus, arsenic or mercury or their compounds, or from anthrax, or from compressed air illness, contracted as the result of the nature of the patient's employment, shall send to the commissioner of labor a notice stating the name and full postal address and place

of employment of the patient and the disease from which, in the opinion of the medical practitioner, the patient is suffering, with such other and further information as may be required by the said commissioner.

2. If any medical practitioner, when required by this section to send a notice, fails forthwith to send the same, he shall be liable to a fine not exceeding ten dollars.

3. It shall be the duty of the commissioner of labor to enforce the provisions of this section, and he may call upon the state and local boards of health for assistance. [*Added by L. 1911, ch. 258.*]

ARTICLE 5.

Bureau of Factory Inspection.

Section 60. Factory inspector.

61. Deputies.

62. General powers and duties.

63. Reports.

67. Duties relative to apprentices.

68. Laws to be posted.

§ 60. Chief factory inspector.—There shall continue to be a bureau of factory inspection. The first deputy commissioner of labor shall be the chief factory inspector of the state and in immediate charge of this bureau, but subject to the direction and supervision of the commissioner of labor [*As am'd by L. 1911, ch. 729.*]

§ 61. Factory inspectors.—The commissioner of labor may appoint from time to time not more than eighty-five persons as factory inspectors, not more than fifteen of whom shall be women, and who may be removed by him at any time. The factory inspectors may be divided into five grades, but not more than thirty shall be of the third grade, and not more than eight shall be of the fourth grade and not more than one shall be of the fifth grade. Each inspector of the first grade shall receive an annual salary of one thousand dollars, each of the second grade an annual salary of one thousand two hundred dollars and each of the third grade an annual salary of one thousand five hundred dollars. There shall be after October first, nineteen hundred and eleven, no further appointments in the first grade and no vacancies in the first grade shall be filled. There may be at any time not to exceed fifty persons in the second grade. Each inspector of the fourth grade shall receive an annual salary of two thousand five hundred dollars. Each inspector of the fifth grade shall receive an annual salary of three thousand five hundred dollars. Each inspector of the fifth grade shall be a mechanical engineer. [*As am'd by L. 1911, ch. 729.*]

§ 62. General powers and duties.—1. The commissioner of labor shall from time to time divide the state into districts, assign one factory inspector of the fourth grade to each district as supervising inspector, and may in his discretion transfer them from one district to another; he may assign any factory inspector to inspect any special class or classes of factories or to enforce any special provisions of this chapter; and he may assign any one or more of them to act as clerks in any office of the department. [*As am'd by L. 1911, ch. 729.*]

2. The commissioner of labor may authorize any deputy commissioner or assistant and any special agent or inspector in the department of labor to act as a deputy factory inspector with the full power and authority thereof.

3. The commissioner of labor, the first deputy commissioner of labor and his assistant or assistants and every factory inspector may in the discharge of his duties enter any place, building or room where and when any labor is being performed which is affected by the provisions of this chapter and may enter any factory whenever he may have reasonable cause to believe that any such labor is being performed therein. [*As am'd by L. 1911, ch. 729.*]

4. The commissioner of labor shall visit and inspect or cause to be visited and inspected the factories, during reasonable hours, as often as practicable, and shall cause the provisions of this chapter to be enforced therein.

5. Any lawful municipal ordinance,* by-law or regulation relating to factories, in addition to the provisions of this chapter and not in conflict therewith, may be observed and enforced by the commissioner of labor.

The Commissioner of Labor may also assign duties to the inspectors of steam vessels when transferred by the Superintendent of Public Works in accordance with the Navigation Law (ch. 37 of the Consolidated Laws) as follows:

§ 3. Duties of superintendent of public works.—The superintendent of public works shall superintend the administration of the provisions of this article, appoint the inspectors provided for in this act and exercise supervision over them in the performance of their duties so far as the same relate to the administration and enforcement of the provisions of this article. During such periods of the year as in the judgment of the superintendent of public works, the services of the inspectors provided to be appointed by this article shall not be needed in the administration of the provisions of this article, he may, upon request of the commissioner of labor, for temporary periods, transfer such inspectors to the department of labor, and during the periods in which said inspectors are so transferred, they shall be subject to the jurisdiction of the commissioner of labor and subject to detail by him as experts in the administration of the labor law. The necessary traveling expenses of said inspectors while acting under the jurisdiction of the commissioner of labor shall be paid from the funds appropriated for the administration of the department of labor, and their salaries shall be paid, as hereinafter provided, by the superintendent of public works, their vouchers to be approved by the commissioner of labor.

§ 63. Reports.—The commissioner of labor shall make an annual report to the legislature of the operation of this bureau.

§ 67. Duties relative to apprentices.—The commissioner of labor shall enforce the provisions of the domestic relations law, relative to indenture of apprentices, and prosecute employers for failure to comply with the provisions of such indentures and of such law in relation thereto.

For the law concerning apprentices here referred to see "The Apprentice System" under INDUSTRIAL EDUCATION, *post*.

§ 68. Laws to be posted.—A copy or abstract of the provisions of this chapter applicable thereto, to be prepared and furnished by the commissioner of labor, shall be kept posted by the employer in a conspicuous place on each floor of every factory where persons are employed who are affected by the provisions thereof.

* With the possible exception of New York City ordinances (City of New York v. Trustees of Sailors' Snug Harbor. 85 App. Div. 355, aff'd 180 N. Y. 527, and opinion by Attorney-General, January 16, 1904).

ARTICLE 6.

Factories.

[NOTE.—*The Penal Law, § 1275 (post) makes it a misdemeanor to violate or refuse to comply with the provisions of this article, which are to be strictly construed. (Murphy v. Bennett, 11 App. Div. 298.)*]

Section 70. Employment of minors.

71. Employment certificate how issued.
72. Contents of certificate.
73. School record, what to contain.
75. Report of certificates issued.
76. Registry of children employed.
77. Hours of labor of children, minors and women.
78. Exceptions.
79. Enclosure and operation of elevators and hoisting shafts; inspection.
80. Stairs and doors.
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84. Walls and ceilings.
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89. Time allowed for meals.
90. Inspection of factory buildings.
91. Inspection of boilers in factories.
92. Laundries.
93. Prohibited employment of women and children.
94. Tenant-factories.
95. Unclean tenant-factories.
96. Definition of "custodian."

§ 70. Employment of minors.—No child under the age of fourteen years shall be employed, permitted or suffered to work in or in connection with any factory in this state. No child between the ages of fourteen and sixteen years shall be so employed, permitted or suffered to work unless an employment certificate issued as provided in this article shall have been theretofore filed in the office of the employer at the place of employment of such child.

Compare §§ 626–628 of the Compulsory Education Law under CHILD LABOR, *post*. The prohibition is absolute; lack of intent or knowledge not a defense (opinion of Attorney-General, January 16, 1905; City of New York v. Chelsea Jute Mills, 43 Misc. 266, where it was held, March 24, 1904, that ignorance of the child's age and an honest belief on the part of the employer that it was over age, was no defense). But an officer of a corporation who has directed that no child shall be employed contrary to law is not liable if a subordinate, without his knowledge, illegally employs a child. *People v. Taylor*, 192 N. Y. 398 (1908).

Violation is a misdemeanor (*Penal Law, § 1275, post*) and *prima facie* evidence of negligence on the part of an employer in an action against him: *Marino v. Lehmaier*, 173 N. Y. 530; *Koester v. Rochester Candy Works*, 194 N. Y. 92 (1909); *Sitts v. Waintha Co.*, 94 App. Div. 38; *Dragotto v. Plunkett*, 113 App. Div. 648; *Lee v. Sterling Silk Mfg. Co.*, 115 App. Div. 589 and 134 App. Div. 123; *Kenyon v. Sanford Mfg. Co.*, 199 App. Div. 570; *Fortune v. Hall*, 122 App. Div. 250; *Danaher v. American Mfg. Co.*, 126 App. Div. 385 (1908). *Cf.* also § 202, *post*.

The section does not apply to children employed in fields adjacent to canning factories, nor to sheds unconnected with such factories (opinion of Attorney-General, September 22, 1905).

§ 71. Employment certificate how issued.—Such certificate shall be issued by the commissioner of health or the executive officer of the board or depart-

ment of health of the city, town or village where such child resides, or is to be employed, or by such other officer thereof as may be designated by such board, department or commissioner for that purpose, upon the application of the parent or guardian or custodian of the child desiring such employment. Such officer shall not issue such certificate until he has received, examined, approved and filed the following papers duly executed, viz.: The school record of such child properly filled out and signed as provided in this article; also evidence of age showing that the child is fourteen years old or upwards, which shall consist of the evidence thereof provided in one of the following subdivisions of this section and which shall be required in the order herein designated as follows:

(a) Birth certificate: A duly attested transcript of the birth certificate filed according to law with a registrar of vital statistics or other officer charged with the duty of recording births, which certificate shall be conclusive evidence of the age of such child.

(b) Certificate of graduation: A certificate of graduation duly issued to such child showing that such child is a graduate of a public school of the state of New York or elsewhere, having a course of not less than eight years, or of a school in the state of New York other than a public school, having a substantially equivalent course of study of not less than eight years' duration, in which a record of the attendance of such child has been kept as required by article twenty of the education law, provided that the record of such school shows such child to be at least fourteen years of age.

(c) Passport or baptismal certificate: A passport or a duly attested transcript of a certificate of baptism showing the date of birth and place of baptism of such child.

(d) Other documentary evidence: In case it shall appear to the satisfaction of the officer to whom application is made, as herein provided, for an employment certificate, that a child for whom such certificate is requested, and who has presented the school record, is in fact over fourteen years of age, and that satisfactory documentary evidence of age can be produced, which does not fall within any of the provisions of the preceding subdivisions of this section, and that none of the papers mentioned in said subdivisions can be produced, then and not otherwise he shall present to the board of health of which he is an officer or agent, for its action thereon, a statement signed by him showing such facts, together with such affidavits or papers as may have been produced before him constituting such evidence of the age of such child, and the board of health, at a regular meeting thereof, may then, by resolution, provide that such evidence of age shall be fully entered on the minutes of such board, and shall be received as sufficient evidence of the age of such child for the purpose of this section.

(e) Physicians' certificates: In cities of the first class only, in case application for the issuance of an employment certificate shall be made to such officer by a child's parent, guardian or custodian who alleges his inability to produce any of the evidence of age specified in the preceding subdivisions of this section, and if the child is apparently at least fourteen years of age, such officer may receive and file an application signed by the parent, guardian or custodian of such child for physicians' certificates. Such application shall contain the alleged age, place and date of birth, and present residence of such child, together with such further facts as may be of assistance in determining

the age of such child. Such application shall be filed for not less than ninety days after date of such application for such physicians' certificates, for an examination to be made of the statements contained therein, and in case no facts appear within such period or by such examination tending to discredit or contradict any material statement of such application, then and not otherwise the officer may direct such child to appear thereafter for physical examination before two physicians officially designated by the board of health, and in case such physicians shall certify in writing that they have separately examined such child and that in their opinion such child is at least fourteen years of age such officer shall accept such certificates as sufficient proof of the age of such child for the purposes of this section. In case the opinions of such physicians do not concur, the child shall be examined by a third physician and the concurring opinions shall be conclusive for the purpose of this section as to the age of such child.

Such officer shall require the evidence of age specified in subdivision (a) in preference to that specified in any subsequent subdivision and shall not accept the evidence of age permitted by any subsequent subdivision unless he shall receive and file in addition thereto an affidavit of the parent showing that no evidence of age specified in any preceding subdivision or subdivisions of this section can be produced. Such affidavit shall contain the age, place and date of birth, and present residence of such child, which affidavit must be taken before the officer issuing the employment certificate, who is hereby authorized and required to administer such oath and who shall not demand or receive a fee therefor. Such employment certificate shall not be issued until such child further has personally appeared before and been examined by the officer issuing the certificate, and until such officer shall, after making such examination, sign and file in his office a statement that the child can read and legibly write simple sentences in the English language and that in his opinion the child is fourteen years of age or upwards and has reached the normal development of a child of its age, and is in sound health and is physically able to perform the work which it intends to do. In doubtful cases such physical fitness shall be determined by a medical officer of the board or department of health. Every such employment certificate shall be signed, in the presence of the officer issuing the same, by the child in whose name it is issued.

An amendment to the Penal Law, § 1275, subd. 8, *post*, makes it a misdemeanor to make a false statement in relation to an application for an employment certificate.

§ 72. **Contents of certificate.**—Such certificate shall state the date and place of birth of the child, and describe the color of the hair and eyes, the height and weight and any distinguishing facial marks of such child, and that the papers required by the preceding section have been duly examined, approved and filed and that the child named in such certificate has appeared before the officer signing the certificate and been examined.

§ 73. **School record, what to contain.**—The school record required by this article shall be signed by the principal or chief executive officer of the school which such child has attended and shall be furnished, on demand, to a child entitled thereto or to the board, department or commissioner of health. It shall contain a statement certifying that the child has regularly attended the public schools or schools equivalent thereto or parochial schools for not less than one hundred and thirty days during the twelve months next preceding

his fourteenth birthday, or during the twelve months next preceding his application for such school record and is able to read and write simple sentences in the English language, and has received during such period instruction in reading, spelling, writing, English grammar and geography and is familiar with the fundamental operations of arithmetic up to and including fractions. Such school record shall also give the date of birth and residence of the child as shown on the records of the school and the name of its parent or guardian or custodian.

Compare §§ 629-630 of the Compulsory Education Law under CHILD LABOR, *post*.

§ 75. **Report of certificates issued.**—The board or department of health or health commissioner of a city, village or town, shall transmit, between the first and tenth day of each month, to the office of the commissioner of labor a list of the names of the children to whom certificates have been issued.

§ 76. **Registry of children employed.**—Each person owning or operating a factory and employing children therein shall keep or cause to be kept in the office of such factory, a register, in which shall be recorded the name, birth-place, age and place of residence of all children so employed under the age of sixteen years. Such register and the certificate filed in such office shall be produced for inspection upon the demand of the commissioner of labor. On termination of the employment of a child so registered, and whose certificate is so filed, such certificate shall be forthwith surrendered by the employer to the child or its parent or guardian or custodian. The commissioner of labor may make demand on an employer in whose factory a child apparently under the age of sixteen years is employed or permitted or suffered to work, and whose employment certificate is not then filed as required by this article, that such employer shall either furnish him, within ten days, evidence satisfactory to him that such child is in fact over sixteen years of age, or shall cease to employ or permit or suffer such child to work in such factory. The commissioner of labor may require from such employer the same evidence of age of such child as is required on the issuance of an employment certificate; and the employer furnishing such evidence shall not be required to furnish any further evidence of the age of the child. A notice embodying such demand may be served on such employer personally or may be sent by mail addressed to him at said factory, and if served by post shall be deemed to have been served at the time when the letter containing the same would be delivered in the ordinary course of the post. When the employer is a corporation such notice may be served either personally upon an officer of such corporation, or by sending it by post addressed to the office or the principal place of business of such corporation. The papers constituting such evidence of age furnished by the employer in response to such demand shall be filed with the commissioner of labor and a material false statement made in any such paper or affidavit by any person shall be a misdemeanor. In case such employer shall fail to produce and deliver to the commissioner of labor within ten days after such demand such evidence of age herein required by him, and shall thereafter continue to employ such child or permit or suffer such child to work in such factory, proof of the giving of such notice and of such failure to produce and file such evidence shall be prima facie evidence in any prosecution brought for a violation of this article that such child is under sixteen years of age and is unlawfully employed.

§ 77. **Hours of labor of children, minors and women.**—1. No child under the age of sixteen years shall be employed or permitted to work in or in connection with any factory in this state before eight o'clock in the morning, or after five o'clock in the evening of any day, or for more than eight hours in any one day, or more than six days in any one week.

2. No male minor under the age of eighteen years shall be employed or permitted to work in any factory in this state more than six days or sixty hours in any one week, or for more than ten hours in any one day, except as hereinafter provided; nor between the hours of twelve midnight and four o'clock in the morning.

3. No female minor under the age of twenty-one years and no woman shall be employed or permitted to work in any factory in this state before six o'clock in the morning, or after nine o'clock in the evening of any day, or more than six days or sixty hours in any one week; nor for more than ten hours in any one day except as hereinafter provided.

4. A printed notice, in a form which shall be furnished by the commissioner of labor, stating the number of hours per day for each day of the week required of such persons, and the time when such work shall begin and end, shall be kept posted in a conspicuous place in each room where they are employed. But such persons may begin their work after the time for beginning and stop before the time for ending such work, mentioned in such notice, but they shall not otherwise be employed, permitted or suffered to work in such factory except as stated therein. The terms of such notice shall not be changed after the beginning of labor on the first day of the week without the consent of the commissioner of labor. The presence of such persons in the factory at any other hours than those stated in the printed notice, or if no such notice be posted, before seven o'clock in the morning or after six o'clock in the evening, shall constitute prima facie evidence of a violation of this section.

5. In a factory wherein, owing to the nature of the work, it is practically impossible to fix the hours of labor weekly in advance the commissioner of labor, upon a proper application stating facts showing the necessity therefor, shall grant a permit dispensing with the notice hereinbefore required, upon condition that the daily hours of labor be posted for the information of employees and that a time book in a form to be approved by him, giving the names and addresses of all female employees and the hours worked by each of them in each day, shall be properly and correctly kept, and shall be exhibited to him or any of his subordinates promptly upon demand. Such permit shall be kept posted in such place in such factory as such commissioner may prescribe, and may be revoked by such commissioner at any time for failure to post it or the daily hours of labor or to keep or exhibit such time book as herein provided.

6. Where a female or male minor is employed in two or more factories or mercantile establishments in the same day or week the total time of employment must not exceed that allowed per day or week in a single factory or mercantile establishment; and any person who shall require or permit a female to work in a factory between the hours of six o'clock in the evening and seven o'clock in the morning in violation of the provisions of this sub-

division of this section, with or without knowledge of the previous or other employment, shall be liable for a violation thereof.

Compare §§ 161 and 161-a, *post*.

The limitation of the working hours of women to sixty per week is constitutional: *People v. Howe*, Court of Special Sessions, Oct., 1906 (Report of Com. of Labor, 1906, p. 119; Department of Labor Bulletin, Dec., 1906, p. 483).

The prohibition of the employment of women over 21 years of age between 9 p. m. and 6 a. m. is unconstitutional: *People v. Williams*, 189 N. Y. 131 (1907).

§ 78. **Exceptions.**—1. A female sixteen years of age or upwards and a male between the ages of sixteen and eighteen may be employed in a factory more than ten hours a day:—(a) regularly in not to exceed five days a week, in order to make a short day or a holiday on one of the six working days of the week; (b) irregularly in not to exceed three days a week; provided that no such person shall be required or permitted to work more than twelve hours in any one day or more than sixty hours in any one week, and that the provisions of the preceding section as to notice or time book be fully complied with.

2. In a prosecution for a violation of any provision of this or of the preceding section the burden of proving a permit or exception shall be upon the party claiming it.

§ 79. **Inclosure and operation of elevators and hoisting shafts; inspection.**—If, in the opinion of the commissioner of labor, it is necessary to protect the life or limbs of factory employees, the owner, agent or lessee of such factory where an elevator, hoisting shafts or well hole is used, shall cause, upon written notice from the commissioner of labor, the same to be properly and substantially inclosed, secured or guarded, and shall provide such proper traps or automatic doors so fastened in or at all elevator ways, except passenger elevators inclosed on all sides, as to form a substantial surface when closed and so constructed as to open and close by action of the elevator in its passage either ascending or descending. The commissioner of labor may inspect the cable, gearing or other apparatus of elevators in factories and require them to be kept in a safe condition. [*As am'd by L. 1909, ch. 299.*]

Violation is not only a misdemeanor (Penal Law, § 1275, subd. 4, *post*) but renders master liable in case of injury to employees (§ 202, *post*). The owner of a tenant factory cannot by any lease escape responsibility for observance of this section (§ 94, *post*; *Cf.* also note to section 86, *post*).

§ 80. **Stairs and doors.**—Proper and substantial hand rails shall be provided on all stairways in factories. The steps of such stairs shall be covered with rubber, securely fastened thereon, if in the opinion of the commissioner of labor the safety of employees would be promoted thereby. The stairs shall be properly screened at the sides and bottom. All doors leading in or to any such factory shall be so constructed as to open outwardly where practicable, and shall not be locked, bolted or fastened during working hours. No door, window or other opening on any floor of any such factory shall be obstructed by stationary metal bars, grating or wire mesh. Any metal bars, grating, or wire mesh provided for any such doors, windows or openings, shall be so constructed as to be readily movable or removable from the interior in such a manner as to afford the free and unobstructed use of such doors, windows or opening for purposes of egress, in case of need. [*As am'd by L. 1910, ch. 461.*]

Violation both constitutes a misdemeanor (Penal Law, § 1275, *post*) and renders master liable in case of injury to employees (§ 202, *post*). In a tenant factory both owner and occupant are responsible for observance of this section (§ 94, *post*; Cf. also note to § 86, *post*).

By § 351 of the Insurance Law it is made the duty of the State fire marshal to enforce all laws relating to exits from factories outside of New York City. Similar duties in New York City are by section 774 of the charter laid upon the fire commissioner.

§ 81. Protection of employees operating machinery.—The owner or person in charge of a factory where machinery is used, shall provide, in the discretion of the commissioner of labor, belt shifters or other mechanical contrivances for the purpose of throwing on or off belts on pulleys. Whenever practicable, all machinery shall be provided with loose pulleys. All vats, pans, saws, planers, cogs, gearing, belting, shafting, set-screws and machinery, of every description shall be properly guarded. No person shall remove or make ineffective any safeguard around or attached to machinery, vats or pans, while the same are in use, unless for the purpose of immediately making repairs thereto, and all such safeguards so removed shall be promptly replaced. All grinding, polishing or buffing wheels used in the course of the manufacture of articles of the baser metals shall be equipped with proper hoods and pipes and such pipes shall be connected to an exhaust fan of sufficient capacity and power to remove all matter thrown off such wheels in the course of their use. Such fan shall be kept running constantly while such grinding, polishing or buffing wheels are in operation; except that in case of wet grinding it is unnecessary to comply with this provision. All machinery creating dust or impurities shall be equipped with proper hoods and pipes and such pipes shall be connected to an exhaust fan of sufficient capacity and power to remove such dust or impurities; such fan shall be kept running constantly while such machinery is in use; except where, in case of wood-working machinery, the commissioner of labor, after first making and filing in the public records of his office a written statement of the reasons therefor, shall decide that it is unnecessary for the health and welfare of the operatives. If a machine or any part thereof is in a dangerous condition or is not properly guarded, the use thereof may be prohibited by the commissioner of labor and a notice to that effect shall be attached thereto. Such notice shall not be removed until the machine is made safe and the required safeguards are provided, and in the meantime such unsafe or dangerous machinery shall not be used. When in the opinion of the commissioner of labor it is necessary, the work-rooms, halls and stairs leading to the work-rooms shall be properly lighted, and in cities of the first class, if deemed necessary by the commissioner of labor, a proper light shall be kept burning by the owner or lessee in the public hallways near the stairs upon the entrance floor and upon the other floors on every work day in the year, from the time when the building is opened for use in the morning until the time it is closed in the evening, except at times when the influx of natural light shall make artificial light unnecessary. Such lights shall be independent of the motive power of such factory. [*As am'd by L. 1909, ch. 299, and L. 1910, ch. 106.*]

In absence of direction of factory inspector, failure to supply guards is not violation (Knisley v. Pratt. 75 Hun 323). But non-compliance with the section renders the master liable in case of injury to employees (§ 202, *post*). In a tenant-factory the owner alone is responsible for lighting of halls and stairs (§ 94, *post*).

§ 82. Fire escapes.—Such fire escapes as may be deemed necessary by the commissioner of labor shall be provided on the outside of every factory in this state consisting of three or more stories in height. Each escape shall connect with each floor above the first, and shall be of sufficient strength, well fastened and secured, and shall have landings or balconies not less than six feet in length and three feet in width, guarded by iron railings not less than three feet in height, embracing at least two windows at each story and connected with the interior by easily accessible and unobstructed openings. The balconies or landings shall be connected by iron stairs, not less than eighteen inches wide, with steps of not less than six inches tread, placed at a proper slant and protected by a well-secured handrail on both sides, and shall have a drop ladder not less than twelve inches wide reaching from the lower platform to the ground.

The windows or doors to the landing or balcony of each fire escape shall be of sufficient size and located as far as possible, consistent with accessibility, from the stairways and elevator hatchways or openings, and a ladder from such fire escapes shall extend to the roof. Stationary stairs or ladders shall be provided on the inside of every factory from the upper story to the roof, as a means of escape in case of fire.

Penalty for non-compliance: see Penal Law, § 1275, subd. 4. Liability: see § 202, *post*. In a tenant-factory the owner alone is responsible for observance of this section (§ 94, *post*).

§ 83. Commissioner of labor may order erection of fire escapes.—Any other plan or style of fire escape shall be sufficient if approved in writing by the commissioner of labor. If there is no fire escape, or the fire escape in use is not approved by the commissioner of labor, he may, by a written order served upon the owner, proprietor or lessee of any factory, or the agent or superintendent thereof, or either of them, require one or more fire escapes to be provided therefor, at such locations and of such plan and style as shall be specified in such order. Within twenty days after the service of such order, the number of fire escapes required therein shall be provided, each of which shall be of the plan and style specified in the order, or of the plan and style described in the preceding section. If any of the doors, windows or other openings of any floor of any factory is obstructed by any form of stationary metal bars, gratings, or wire mesh, or if any metal obstruction or protective device for any such door, window or opening is not approved by the commissioner of labor, he shall, by a written order served upon the owner, proprietor or lessee of any factory, or the agent or superintendent thereof, or either of them, require such stationary bars, grating, mesh or other stationary obstruction to be forthwith removed. Immediately after the service of such order, the said stationary bars, grating or other obstruction shall be removed. [*As am'd by L. 1910, ch. 461.*]

In a tenant-factory the owner alone is responsible for observance of this section (§ 94, *post*).

By section 351 of the Insurance Law it is made the duty of the State fire marshal to enforce all laws relating to fire escapes outside of New York City. Prior to 1911 jurisdiction over the subject of fire escapes in New York City was vested exclusively in the local superintendent of buildings: *City of New York v. Trustees of Sailors' Snug Harbor*, 85 App. Div. 355; *aff'd*, 180 N. Y. 527. See also opinion of the Attorney-General, January 16, 1904 (Third General Report of the Department of Labor, p. 121). An amendment of the New York City charter of 1911 (adding sections 774 to 778-c) makes it the duty of the fire commissioner to enforce laws concerning the means of exit from factories.

§ 84. Walls, ceilings, floors and receptacles.—The walls and ceilings of each workroom in a factory shall be lime washed or painted, when in the opinion of the commissioner of labor, it will be conducive to the health or cleanliness of the persons working therein. Floors shall be maintained in a safe condition and shall be kept clean and sanitary at all times. No person shall spit or expectorate upon the walls, floors, or stairs of any building used in whole or in part for factory purposes. Sanitary cuspidors shall be provided, in the discretion of the commissioner of labor, in every workroom in a factory in such numbers as the commissioner of labor may determine. Such cuspidors shall be thoroughly cleaned daily. Suitable receptacles shall be provided and used for the storage of waste and refuse; such receptacles shall be maintained in a sanitary condition. [*As am'd by L. 1910, ch. 114.*]

In tenant-factories responsibility for cleanliness of halls, etc. is placed upon the owner by section 94, *post*.

Cf. special requirements for bakeries in §§ 112-114, *post*; and for laundries in § 92.

§ 85. Size of rooms.—No more employees shall be required or permitted to work in a room in a factory between the hours of six o'clock in the morning and six o'clock in the evening than will allow to each of such employees, not less than two hundred and fifty cubic feet of air space; and, unless by a written permit of the commissioner of labor, not less than four hundred cubic feet for each employee, so employed between the hours of six o'clock in the evening and six o'clock in the morning, provided such room is lighted by electricity at all times during such hours, while persons are employed therein.

Cf. requirement as to height of ceilings in bakeries in §§ 112 and 114, *post*.

§ 86. Ventilation.—The owner, agent or lessee of a factory shall provide, in each workroom thereof, proper and sufficient means of ventilation, and shall maintain proper and sufficient ventilation; if excessive heat be created or if steam, gases, vapors, dust or other impurities that may be injurious to health be generated in the course of the manufacturing process carried on therein the room must be ventilated in such a manner as to render them harmless, so far as is practicable; in case of failure the commissioner of labor shall order such ventilation to be provided. Such owner, agent or lessee shall provide such ventilation within twenty days after the service upon him of such order, and in case of failure, shall forfeit to the people of the state, ten dollars for each day after the expiration of such twenty days, to be recovered by the commissioner of labor.

Section 94, *post*, makes the owner as well as occupant in a tenant-factory responsible for observance of this section and the owner of a factory building is liable for a violation of this section even though by the terms of a lease a tenant agrees to comply with the law: *People ex rel. Williams v. Eno*, 134 App. Div. 527.

Cf. special requirements for bakeries in §§ 111 and 114, *post*.

§ 87. Accidents to be reported.—The person in charge of any factory shall keep a correct record of all deaths, accidents or injuries sustained by any person therein or on the premises, in such form as may be required by the commissioner of labor. Such record shall be open to the inspection of the commissioner of labor and a copy thereof shall be furnished to the said commissioner on demand. Within forty-eight hours after the time of the accident, death or injury, a report thereof shall be made in writing to the

commissioner of labor, stating as fully as possible the cause of the death or the extent and cause of the injury, and the place where the injured person has been sent, with such other or further information relative thereto as may be required by the said commissioner, who may investigate the causes thereof and require such precautions to be taken as will prevent the recurrence of similar happenings. No statement contained in any such report shall be admissible in evidence in any action arising out of the death or accident therein reported. [*As am'd by L. 1910, ch. 155.*]

Compare § 20-a, *ante*, (building accidents) and § 126, *post* (accidents in mines and quarries); also §§ 47, 66 and 94 of the Public Service Commissions Law (Ch. 48 of Consolidated Laws).

§ 88. **Drinking water, wash-room and water-closets.**—In every factory there shall be provided at all times for the use of employees, a sufficient supply of clean and pure drinking water. Such water shall be supplied through proper pipe connections with water mains through which is conveyed the water used for domestic purposes, or, from a spring or well or body of pure water; if such drinking water be placed in receptacles in the factory, such receptacles shall be properly covered to prevent contamination and shall be thoroughly cleaned at frequent intervals. In every factory there shall be provided and maintained for the use of employees, suitable and convenient wash-rooms, adequately equipped with sinks and proper water service. Where females are employed, dressing or emergency rooms shall be provided for their use; each such room shall have at least one window opening to the outer air and shall be enclosed by means of solid partitions or walls. In brass and iron foundries suitable provision shall be made and maintained for drying the working clothes of persons employed therein. In every factory there shall be provided suitable and convenient water-closets for each sex, in such number as the commissioner of labor may determine. Such water-closets shall be properly screened, lighted, ventilated and kept clean and sanitary; the enclosure of each closet shall be kept clean and sanitary and free from all obscene writing or marking. The water-closets used by females shall be entirely separated from those used by males and the entrances thereto shall be effectively screened. The water-closets shall be maintained inside the factory whenever practicable and in all cases, when required by the commissioner of labor. [*As am'd by L. 1910, ch. 229.*]

In a tenant-factory the owner must provide water-closets, and the necessary plumbing and water to enable occupants to comply with all the provisions of this section (§ 94, *post*).

Cf. special requirements for bakeries in §§ 112 and 113, *post*.

§ 89. **Time allowed for meals.**—In each factory at least sixty minutes shall be allowed for the noon-day meal, unless the commissioner of labor shall permit a shorter time. Such permit must be in writing and conspicuously posted in the main entrance of the factory, and may be revoked at any time. Where employees are required or permitted to work overtime for more than one hour after six o'clock in the evening, they shall be allowed at least twenty minutes to obtain a lunch, before beginning to work overtime.

§ 90. **Inspection of factory buildings.**—The commissioner of labor, or other competent person designated by him, upon request, shall examine any factory outside of the cities of New York and Brooklyn, to determine whether it is in a safe condition. If it appears to him to be unsafe, he shall immediately

notify the owner, agent or lessee thereof, specifying the defects, and require such repairs and improvements to be made as he may deem necessary. If the owner, agent or lessee shall fail to comply with such requirement, he shall forfeit to the people of the state the sum of fifty dollars, to be recovered by the commissioner of labor in his name of office.

In a tenant-factory the owner alone is responsible for observance of this section (§ 94, *post*).

§ 91. **Inspection of boilers in factories.**—All boilers used for generating steam or heat for factory purposes shall be kept in good order, and the owner, agent, manager or lessee of such factory shall have such boilers inspected by a competent person approved by the commissioner of labor once in six months, and shall file a certificate showing the result thereof in such factory office and a duplicate thereof in the office of the commissioner of labor. Each boiler or nest of boilers used for generating steam or heat for factory purposes shall be provided with a proper safety-valve and with steam and water gauges, to show, respectively, the pressure of steam and the height of water in the boilers. Every boiler house in which a boiler or nest of boilers is placed, shall be provided with a steam gauge properly connected with the boilers, and another steam gauge shall be attached to the steam pipe in the engine house, and so placed that the engineer or fireman can readily ascertain the pressure carried. Nothing in this section shall apply to boilers in factories which are regularly inspected by competent inspectors acting under the authority of local laws or ordinances.

In a tenant-factory both owner and occupant are responsible for observance of this section (§ 94, *post*).

For annual inspection of boilers in New York City, see § 342 of the charter, given under topic "Inspection of steam boilers, etc." under LICENSING OF TRADES, *post*. Inspection of boilers on steamboats is provided for by §§ 5-6 of the Navigation Law (ch. 37 of the Consolidated Laws). Locomotive boiler inspection, see Railroad Law, § 72, given under "Inspection of Locomotive Boilers" under RAILWAY LABOR, *post*. Section 351 of the Insurance Law makes it the duty of the state fire marshal to enforce all laws relating to inspection of steam boilers outside of New York City.

§ 92. **Laundries.**—A shop, room or building where one or more persons are employed in doing public laundry work by way of trade or for purposes of gain is a factory within the meaning of this chapter, and shall be subject to the visitation and inspection of the commissioner of labor and the provisions of this chapter in the same manner as any other factory. No such public laundry work shall be done in a room used for a sleeping or living room. All such laundries shall be kept in a clean condition and free from vermin and all impurities of an infectious or contagious nature. This section shall not apply to any female engaged in doing custom laundry work at her home for a regular family trade.

An hotel laundry is not a public laundry. Opinion of the Attorney-General, March 5 and September 28, 1906.

§ 93. **Prohibited employment of women and children.**—No child under the age of sixteen years shall be employed or permitted to work in operating or assisting in operating any of the following machines: circular or band saws, wood shapers, woodjointers, planers, sandpaper or wood polishing machinery; picker machines or machines used in picking wool, cotton, hair or any

* So in original.

upholstering material; paper lace machines; burnishing machines in any tannery or leather manufactory; job or cylinder printing presses having motive power other than foot; woodturning or boring machinery; drill presses; metal or paper cutting machines; corner staying machines in paper box factories; stamping machines used in sheet metal and tinware manufacturing or in washer and nut factories; machines used in making corrugating rolls; steam boilers; dough brakes or cracker machinery of any description; wire or iron straightening machinery; rolling mill machinery, power punches or shears; washing, grinding or mixing machinery, *calendar rolls in rubber manufacturing; or laundering machinery. No child under the age of sixteen years shall be employed or permitted to work at adjusting or assisting in adjusting any belt to any machinery; oiling or assisting in oiling, wiping or cleaning machinery; or in any capacity in preparing any composition in which dangerous or poisonous acids are used; or in the manufacture or packing of paints, dry colors, or red or white lead; or in dipping, dyeing or packing matches; or in the manufacture, packing or storing of powder, dynamite, nitro glycerine, compounds, fuses, or other explosives; or in or about any distillery, brewery, or any other establishment where malt or alcoholic liquors are manufactured, packed, wrapped, or bottled; and no female under the age of sixteen shall be employed or permitted to work in any capacity where such employment compels her to remain standing constantly. No child under the age of sixteen years shall be employed or permitted to have the care, custody or management of or to operate an elevator either for freight or passengers. No person under the age of eighteen years shall be employed or permitted to have the care, custody or management of or to operate an elevator either for freight or passengers running at a speed of over two hundred feet a minute. No male person under eighteen years or woman under twenty-one years of age shall be permitted or directed to clean machinery while in motion. No male child under the age of eighteen years, nor any female, shall be employed in any factory in this state in operating or using any emery, tripoli, rouge, corundum, stone, carborundum or any abrasive, or emery polishing or buffing wheel, where articles of the base metals or of iridium are manufactured. [*As am'd by L. 1909, ch. 299, and L. 1910, ch. 107.*]

Children may not assume the obvious risks of operating dangerous machinery contrary to this section, violation of which is *prima facie* evidence of negligence. *Gallenkamp v. Garvin Machine Co.*, 179 N. Y. 588, reversing 91 App. Div. 141, on dissenting opinion below; and *Rahn v. Standard Optical Co.*, 110 App. Div. 501. See also § 202, *post*.

§ 94. **Tenant-factories.**—A tenant-factory within the meaning of the term as used in this chapter is a building, separate parts of which are occupied and used by different persons, companies or corporations, and one or more of which parts is so used as to constitute in law a factory. The owner, whether or not he is also one of the occupants, instead of the respective lessees or tenants, shall be responsible for the observance and punishable for the non-observance of the following provisions of this article, anything in any lease to the contrary notwithstanding,—namely, the provisions of sections seventy-nine, eighty, eighty-two, eighty-three, eighty-six, ninety and ninety-one, and

* So in original.

the provisions of section eighty-one with respect to the lighting of halls and stairways; except that the lessees or tenants also shall be responsible for the observance and punishable for the nonobservance of the provisions of sections seventy-nine, eighty, eighty-six and ninety-one within their respective holdings. The owner of every tenant-factory shall provide each separate factory therein with water-closets in accordance with the provisions of section eighty-eight, and with proper and sufficient water and plumbing pipes and a proper and sufficient supply of water to enable the tenant or lessee thereof to comply with all the provisions of said section. But as an alternative to providing water-closets within each factory as aforesaid, the owner may provide in the public hallways or other parts of the premises used in common, where they will be at all times readily and conveniently accessible to all persons employed on the premises not provided for in accordance with section eighty-eight, separate water-closets for each sex, of sufficient numbers to accommodate all such persons. Such owner shall keep all water-closets located as last specified at all times provided with proper fastenings, and properly screened, lighted, ventilated, clean, sanitary and free from all obscene writing or marking. Outdoor water-closets shall only be permitted where the commissioner of labor shall decide that they are necessary or preferable, and they shall then be provided in all respects in accordance with his directions. The owner of every tenant-factory shall keep the entire building well drained and the plumbing thereof in a clean and sanitary condition; and shall keep the cellar, basement, yards, areas, vacant rooms and spaces, and all parts and places used in common in a clean, sanitary and safe condition, and shall keep such parts thereof as may reasonably be required by the commissioner of labor properly lighted at all hours or times when said building is in use for factory purposes. The term "owner" as used in this article shall be construed to mean the owner or owners of the freehold of the premises, or the lessee or joint lessees of the whole thereof, or his, her or their agent in charge of the property. The lessee or tenant of any part of a tenant-factory shall permit the owner, his agents and servants, to enter and remain upon the demised premises whenever and so long as may be necessary to comply with the provisions of law, the responsibility for which is by this section placed upon the owner; and his failure or refusal so to do shall be a cause for dispossessing said tenant by summary proceedings to recover possession of real property, as provided in the code of civil procedure. And whenever by the terms of a lease any lessee or tenant shall have agreed to comply with or carry out any of such provisions, his failure or refusal so to do shall be a cause for dispossessing said tenant by summary proceedings as aforesaid. Except as in this article otherwise provided the person or persons, company or corporation conducting or operating a factory whether as owner or lessee of the whole or of a part of the building in which the same is situated or otherwise, shall be responsible for the observance and punishable for the nonobservance of the provisions of this article, anything in any lease or agreement to the contrary notwithstanding.

§ 95. **Unclean tenant-factories.**—If the commissioner of labor finds evidence of contagious disease present in any tenant-factory in which any of the articles enumerated in section one hundred hereof are manufactured, altered, repaired or finished he shall affix to any such articles exposed to such contagion a label containing the word "unclean" and shall notify the

local board of health, who may disinfect such articles and thereupon remove such label. If the commissioner of labor finds any of the articles specified in said section in any workroom or factory in a tenant-factory which is foul, unclean or unsanitary, he may, after first making and filing in the public records of his office a written order stating the reasons therefor, affix to such articles a label containing the word "unclean." No one but the commissioner of labor shall remove any label so affixed; and he may refuse to remove it until such articles shall have been removed from such factory and cleaned, or until such room or rooms shall have been cleaned or made sanitary.

§ 96. Definition of "custodian."—The word "custodian" as used in this article shall include any person, organization or society having the custody of a child.

ARTICLE 7.

Tenement-Made Articles.

[NOTE.—An earlier statute (L. 1884, ch. 272), which attempted to prohibit the manufacture of cigars in tenements, was declared unconstitutional (*Matter of Jacobs*, 98 N. Y. 98). Violation is a misdemeanor (*Penal Law*, § 1275, subd. 5, post). "Tenement house" is defined in § 2, ante.]

- Section 100. Manufacturing, altering, repairing or finishing articles in tenements.
101. Register of persons to whom work is given.
 102. Goods unlawfully manufactured to be labeled.
 103. Powers and duties of boards of health relative to tenement-made articles.
 104. Inspection of articles manufactured in other states.
 105. Owners of tenement and dwelling houses not to permit the unlawful use thereof.

§ 100. Manufacturing, altering, repairing or finishing articles in tenements.

1. No tenement-house nor any part thereof shall be used for the purpose of manufacturing, altering, repairing or finishing therein, any coats, vests, knee-pants, trousers, overalls, cloaks, hats, caps, suspenders, jerseys, blouses, dresses, waists, waistbands, underwear, neckwear, furs, fur trimmings, fur garments, skirts, shirts, aprons, purses, pocket-books, slippers, paper boxes, paper bags, feathers, artificial flowers, cigarettes, cigars, umbrellas, or articles of rubber, nor for the purpose of manufacturing, preparing or packing macaroni, spaghetti, ice cream, ices, candy, confectionery, nuts or preserves, without a license therefor as provided in this article. But nothing herein contained shall apply to collars, cuffs, shirts or shirt waists made of cotton or linen fabrics that are subjected to the laundrying process before being offered for sale.

2. Application for such a license shall be made to the commissioner of labor by the owner of such tenement-house, or by his duly authorized agent. Such application shall describe the house by street number or otherwise, as the case may be, in such manner as will enable the commissioner of labor easily to find the same; it shall also state the number of apartments in such house; it shall contain the full name and address of the owner of the said house, and shall be in such form as the commissioner of labor may determine. Blank applications shall be prepared and furnished by the commissioner of labor.

3. Upon receipt of such application the commissioner of labor shall consult the records of the local health department or board, or other appropriate local authority charged with the duty of sanitary inspection of such houses;

if such records show the presence of any infectious, contagious or communicable disease, or the existence of any uncomplished orders or violations which indicate the presence of unsanitary conditions in such house, the commissioner of labor may, without making an inspection of the building, deny such application for a license, and may continue to deny such application until such time as the records of said department, board or other local authority show that the said tenement-house is free from the presence of infectious, contagious or communicable disease, and from all unsanitary conditions. Before, however, any such license is granted, an inspection of the building sought to be licensed must be made by the commissioner of labor, and a statement must be filed by him as a matter of public record, to the effect that the records of the local health department or board or other appropriate authority charged with the duty of sanitary inspection of such houses show the existence of no infectious, contagious or communicable disease nor of any unsanitary conditions in the said house; such statement must be dated and signed in ink with the full name of the employee responsible therefor. A similar statement similarly signed, showing the results of the inspection of the said building, must also be filed in the office of the commissioner of labor before any license is granted. If the commissioner of labor ascertain that such building is free from infectious, contagious or communicable disease, that there are no defects of plumbing that will permit the free entrance of sewer air, that such building is in a clean and proper sanitary condition and that the articles specified in this section may be manufactured therein under clean and healthful conditions, he shall grant a license permitting the use of such building, for the purpose of manufacturing, altering, repairing or finishing such articles.

4. Such license may be revoked by the commissioner of labor if the health of the community or of the employees requires it, or if the owner of the said tenement-house, or his duly authorized agent, fails to comply with the orders of the commissioner of labor within ten days after the receipt of such orders, or if it appears that the building to which such license relates is not in a healthy and proper sanitary condition. In every case where a license is revoked or denied by the commissioner of labor the reasons therefor shall be stated in writing, and the records of such revocation or denial shall be deemed public records. Where a license is revoked, before such tenement-house can again be used for the purposes specified in this section, a new license must be obtained, as if no license had previously existed.

5. Every tenement-house and all the parts thereof in which any of the articles named in this section are manufactured, altered, repaired or finished shall be kept in a clean and sanitary condition and shall be subject to inspection and examination by the commissioner of labor, for the purpose of ascertaining whether said garments or articles, or part or parts thereof, are clean and free from vermin and every matter of an infectious or contagious nature. An inspection shall be made by the commissioner of labor of each licensed tenement-house not less than once in every six months, to determine its sanitary condition, and shall include all parts of such house and the plumbing thereof. Before making such inspection the commissioner of labor may consult the records of the local department or board charged with the duty of sanitary inspection of tenement-houses, to determine the frequency of orders issued by such department or board in relation to the said tenement-

house, since the last inspection of such building was made by the commissioner of labor. Whenever the commissioner of labor finds any unsanitary condition in a tenement-house for which a license has been issued as provided in this section, he shall at once issue an order to the owner thereof directing him to remedy such condition forthwith. Whenever the commissioner of labor finds any of the articles specified in this section manufactured, altered, repaired or finished, or in process thereof, in a room or apartment of a tenement-house, and such room or apartment is in a filthy condition, he shall notify the tenants thereof to immediately clean the same, and to maintain it in a cleanly condition at all times; where the commissioner of labor finds such room or apartment to be habitually kept in a filthy condition, he may in his discretion cause to be affixed to the entrance door of such apartment a placard calling attention to such facts and prohibiting the manufacture, alteration, repair or finishing of said articles therein. No person, except the commissioner of labor, shall remove or deface any such placard so affixed.

See provision for "tagging" of infected or unclean goods specified in this section, in tenant-factories in § 94, *ante*.

6. None of the articles specified in this section shall be manufactured, altered, repaired or finished in any room or apartment of a tenement-house where there is or has been a case of infectious, contagious or communicable disease in such room or apartment, until such time as the local department or board of health shall certify to the commissioner of labor that such disease has terminated, and that said room or apartment has been properly disinfected, if disinfection after such disease is required by the local ordinances, or by the rules or regulations of such department or board. None of the articles specified in this section shall be manufactured, altered, repaired or finished in a part of a cellar or basement of a tenement-house, which is more than one-half of its height below the level of the curb or ground outside of or adjoining the same. No person shall hire, employ or contract with any person to manufacture, alter, repair or finish any of the articles named in this section in any room or apartment in any tenement-house not having a license therefor issued as aforesaid. None of the articles specified in this section shall be manufactured, altered, repaired or finished in any room or apartment of a tenement-house unless said room or apartment shall be well lighted and ventilated and shall contain at least five hundred cubic feet of air space for every person working therein, or by any person other than the members of the family living therein; except that in licensed tenement-houses persons not members of the family may be employed in apartments on the ground floor or second floor, used only for shops of dressmakers who deal solely in the custom trade direct to the consumer, provided that such apartments shall be in the opinion of the commissioner of labor in the highest degree sanitary, well lighted, well ventilated and plumbed, and provided further that the whole number of persons therein shall not exceed one to each one thousand cubic feet of air space, and that there shall be no children under fourteen years of age living or working therein; before any such room or apartment can be so used a special permit therefor shall be issued by the commissioner of labor, a copy of which shall be entered in his public records with a statement of the reasons therefor.

Nothing in this section contained shall prevent the employment of a tailor or seamstress by any person or family for the purpose of making, altering,

repairing or finishing any article of wearing apparel for the use of such person or family. Nor shall this section apply to a house if the only work therein on the articles herein specified be carried on in a shop on the main or ground floor thereof with a separate entrance to the street, unconnected with living rooms and entirely separate from the rest of the building by closed partitions without any openings whatsoever and not used for sleeping or cooking.

§ 101. Register of persons to whom work is given.—Persons contracting for the manufacturing, altering, repairing or finishing of any of the articles mentioned in section one hundred of this article or giving out material from which they or any part of them are to be manufactured, altered, repaired or finished, shall keep a register of the names and addresses plainly written in English of the persons to whom such articles or materials are given to be so manufactured, altered, repaired or finished or with whom they have contracted to do the same. It shall be incumbent upon all persons contracting for the manufacturing, altering, repairing or finishing of any of the articles specified in section one hundred of this article or giving out material from which they or any part of them are to be manufactured, altered, repaired or finished, before giving out the same to ascertain from the office of the commissioner of labor whether the tenement-house in which such articles or materials are to be manufactured, altered, repaired or finished, is licensed as provided in this article, and also to ascertain from the local department or board of health the names and addresses of all persons then sick of any infectious, contagious or communicable disease, and residing in tenement-houses; and none of the said articles nor any material from which they or any part of them are to be manufactured, altered, repaired or finished shall be given out or sent to any person residing in a tenement-house that is not licensed as provided in this article, or to any person residing in a room or apartment in which there exists any infectious, contagious or communicable disease. The register mentioned in this section shall be subject to inspection by the commissioner of labor, and a copy thereof shall be furnished on his demand as well as such other information as he may require.

§ 102. Goods unlawfully manufactured to be labeled.—Articles manufactured, altered, repaired or finished contrary to the provisions of section one hundred of this chapter shall not be sold or exposed for sale by any person. The commissioner of labor may conspicuously affix to any such article found to be unlawfully manufactured, altered, repaired or finished, a label containing the words "tenement made" printed in small pica capital letters on a tag not less than four inches in length, or may seize and hold such article until the same shall be disinfected or cleaned at the owner's expense. The commissioner of labor shall notify the person stated by the person in possession of said article to be the owner thereof, that he has so labeled or seized it. No person except the commissioner of labor shall remove or deface any tag or label so affixed. Unless the owner or person entitled to the possession of an article so seized shall provide for the disinfection or cleaning thereof within one month thereafter it may be destroyed.

§ 103. Powers and duties of boards of health relative to tenement-made articles.—If the commissioner of labor finds evidence of disease present in a workshop or in a room or apartment in a tenement-house or dwelling house in which any of the articles named in section one hundred of this chapter are

manufactured, altered, repaired or finished or in process thereof, he shall affix to such articles the label prescribed in the preceding section, and immediately report to the local board of health, who shall disinfect such articles, if necessary, and thereupon remove such label. If the commissioner of labor finds that infectious or contagious diseases exist in a workshop, room or apartment of a tenement or dwelling house in which any of the articles specified in section one hundred of this chapter are being manufactured, altered, repaired or finished, or that articles manufactured or in process of manufacture therein are infected or that goods used therein are unfit for use, he shall report to the local board of health. The local health department or board in every city, town and village whenever there is any infectious, contagious or communicable disease in a tenement-house shall cause an inspection of such tenement-house to be made within forty-eight hours. If any of the articles specified in section one hundred of this chapter are found to be manufactured, altered, repaired or finished, or in process thereof in an apartment in which such disease exists, such board shall issue such order as the public health may require, and shall at once report such facts to the commissioner of labor, furnishing such further information as he may require. Such board may condemn and destroy all such infected article or articles manufactured or in the process of manufacture under unclean or unhealthful conditions. The local health department or board or other appropriate authority charged with the duty of sanitary inspection of such houses in every city, town and village shall, when so requested by the commissioner of labor, furnish copies of its records as to the presence of infectious, contagious or communicable disease, or of unsanitary conditions in said houses; and shall furnish such other information as may be necessary to enable the commissioner of labor to carry out the provisions of this article.

With this section is to be compared section 33 of the Public Health Law (ch. 49, Consolidated Laws), which reads as follows:

Section 33. *Manufactures in tenement houses and dwellings.*—No room or apartment in a tenement or dwelling house, used for eating or sleeping purposes, shall be used for the manufacture, wholly or partly, of coats, vests, trousers, kneepants, overalls, cloaks, shirts, purses, feathers, artificial flowers or cigars, except by the members of the family living therein, which shall include a husband and wife and their children, or the children of either. A family occupying or controlling such a workshop shall, within fourteen days from the time of beginning work therein, notify the board of health of the city, village or town, where such workshop is located, or a special inspector appointed by such board, of the location of such workshop, the nature of the work carried on, and the number of persons employed therein; and thereupon such board shall, if it deems advisable, cause a permit to be issued to such family to carry on the manufacture specified in the notice. Such board may appoint as many persons as it deems advisable to act as special inspectors. Such special inspectors shall receive no compensation, but may be paid by the board their reasonable and necessary expenses. If a board of health or such inspector shall find evidence of infectious or contagious diseases present in any workshop, or in goods manufactured or in process of manufacture therein, the board shall issue such orders as the public health may require, and shall condemn and destroy such infectious and contagious articles, and may, if necessary to protect the public health, revoke any permit granted by it for manufacturing goods in such workshop. If a board of health or any such inspector shall discover that any such goods are being brought into the state, having been manufactured, in whole or in part, under unhealthy conditions, such board or inspector shall examine such goods, and if they are found to contain vermin, or to have been made in improper places or under unhealthy conditions, the board may make such orders as the public health may require, and may condemn and destroy such goods.

§ 104. **Inspection of articles manufactured in other states.**—Whenever it is reported to the commissioner of labor that any of the articles named in section one hundred of this chapter are being shipped into this state, having previously been manufactured in whole or in part under unclean, unsanitary or unhealthy conditions, said commissioner shall examine said articles and the conditions of their manufacture, and if upon such examination said goods or any part of them are found to contain vermin or to have been manufactured in improper places or under unhealthy conditions, he shall forthwith affix to them the tag or label hereinbefore described and report to the local board of health, which board shall thereupon make such order or orders as the public safety may require.

§ 105. **Owners of tenement and dwelling houses not to permit the unlawful use thereof.**—The owner or agent of a tenement-house or dwelling house shall not permit the use thereof for the manufacture, repair, alteration or finishing of any of the articles mentioned in this article contrary to its provisions. If a room or apartment in such tenement-house or dwelling house be so unlawfully used, the commissioner of labor shall serve a notice thereof upon such owner or agent. Unless such owner or agent shall cause such unlawful manufacture to be discontinued within ten days after the service of such notice, or within fifteen days thereafter institutes and faithfully prosecutes proceedings for the dispossession of the occupant of a tenement-house, or dwelling house, who unlawfully manufactures, repairs, alters or finishes such articles therein, he shall be deemed guilty of a violation of this article, as if he, himself, was engaged in such unlawful manufacture, repair, alteration or finishing. The unlawful manufacture, repair, alteration or finishing of any of such articles by the occupant of a room or apartment of a tenement-house, or dwelling shall be a cause for dispossessing such occupant by summary proceedings to recover possession of real property, as provided in the code of civil procedure.

ARTICLE 8.

Bakeries and Confectioneries.†

[*Non-compliance with the provisions of this article is a misdemeanor (Penal Law, § 1275. subd. 6, post.) The provisions of Art. 6 as to factories generally, apply to bakeries and confectioneries: § 111.*]

Section 110. Hours of labor in bakeries and confectioneries.

- 111. Definitions.
- 112. General requirements.
- 113. Maintenance.
- 114. Inspection of bakeries.

§ 110. **Hours of labor in bakeries and confectioneries.**—No employee shall be required or permitted to work in a biscuit, bread or cake bakery or confectionery establishment more than sixty hours in any one week, or more than ten hours in any one day, unless for the purpose of making a shorter work day on the last day of the week; nor more hours in any one week than will make an average of ten hours per day for the number of days during such week in which such employee shall work.

Declared unconstitutional, April, 1905: *Lochner v. People of N. Y.*, 198 U. S. 45, 177 N. Y. 145.

§ 111. **Definitions.**—All buildings or rooms, except kitchens in hotels and private residences, used or occupied for the purpose of making, preparing or baking bread, biscuits, pastry, cakes, doughnuts, crullers, noodles, macaroni or spaghetti, to be sold or consumed on or off the premises, shall for

† As to bakeries in tenement houses, see the Tenement House Law (ch. 99, Consolidated Laws), § 40.

the purpose of this act be deemed bakeries. The commissioner of labor shall have the same powers with respect to the machinery, safety devices and sanitary conditions in hotel bakeries that he has with respect thereto in bakeries as defined by this chapter. The term cellar when used in this article shall mean a room or part of a building which is more than one-half its height below the level of the curb or ground adjoining the building (excluding areaways). The term owner as used in this article shall be construed to mean the owner or owners of the freehold of the premises, or the lessee or joint lessees of the whole thereof, or his, her or their agent in charge of the property. The term occupier shall be construed to mean 'he person, firm or corporation in actual possession of the premises, who either himself makes, prepares or bakes any of the articles mentioned in this section, or hires or employs others to do it for him. Bakeries are factories within the meaning of this chapter, and subject to all the provisions of article six hereof. [*As am'd by L. 1911, ch. 637.*]

§ 112. General requirements.—All bakeries shall be provided with proper and sufficient drainage and with suitable sinks, supplied with clean running water, for the purpose of washing and keeping clean the utensils and apparatus used therein. All bakeries shall be provided with windows, or if deemed necessary by the commissioner of labor, with ventilating hoods and pipes over ovens and ashpits, or with other mechanical means, to so ventilate same as to render harmless to the persons working therein, any steam, gases, vapors, dust, excessive heat or any impurities that may be generated or released by or in the process of making, preparing or baking in said bakeries. Every bakery shall be at least eight feet in height measured from the surface of the finished floor to the under side of the ceiling, and shall have a flooring of even, smooth cement, or of tiles laid in cement, or a wooden floor, so laid and constructed as to be free from cracks, holes and interstices, except that any cellar or basement less than eight feet in height which was used for a bakery on the second day of May, eighteen hundred and ninety-five, need not be altered to conform to this provision with respect to height; the side walls and ceilings shall be either plastered, ceiled or wainscoted. The furniture, troughs and utensils shall be so arranged and constructed as not to prevent their cleaning or the cleaning of every part of the bakery. Every bakery shall be provided with a sufficient number of water-closets, and such water-closets shall be separate and apart from and unconnected with the bakerroom or rooms where food products are stored or sold. [*As am'd by L. 1911, ch. 637.*]

§ 113. Maintenance.—All floors, walls, stairs, shelves, furniture, utensils, yards, areaways, plumbing, drains and sewers, in or in connection with bakeries, in bakery water-closets and washrooms, in rooms where raw materials are stored, and in rooms where the manufactured product is stored, shall at all times be kept in good repair, and maintained in a clean and sanitary condition, free from all kinds of vermin. All interior wood-work, walls and ceilings shall be painted or limewashed once every three months, where so required by the commissioner of labor. Proper sanitary receptacles shall be provided and used for storing coal, ashes, refuse and garbage. Receptacles for refuse and garbage shall have their contents removed from bakeries daily and shall be maintained in a cleanly and sanitary condition at all times; the use of tobacco in any form in a bakery or room where raw materials or manufactured product of such bakery is

stored is prohibited. No person shall sleep, or be permitted, allowed or suffered to sleep in a bakery, in a room where raw materials are stored, or in rooms where the manufactured product is stored or sold, and no domestic animals or birds, except cats, shall be allowed to remain in any such rooms. [*As am'd by L. 1911, ch. 637.*]

§ 114. **Inspection of bakeries.**—It shall be the duty of the owner of a building wherein a bakery is located to comply with all the provisions of section one hundred and twelve of this article, and of the occupier to comply with all the provisions of section one hundred and thirteen of this article, unless by the terms of a valid lease the responsibility for compliance therewith has been undertaken by the other party to the lease, and a duplicate original lease, containing such obligation, shall have been previously filed in the office of the commissioner of labor, in which event the party assuming the responsibility shall be responsible for such compliance. The commissioner of labor may, in his discretion, apply any or all of the provisions of this article to a factory located in a cellar wherein any food product is manufactured, provided that basements or cellars used as confectionery or ice cream manufacturing shops shall not be required to conform to the requirement as to height of rooms. Such establishments shall be not less than seven feet in height, except that any cellar or basement so used before October first, nineteen hundred and six, which is more than six feet in height need not be altered to conform to this provision. If on inspection the commissioner of labor find a bakery or any part thereof to be so unclean, ill-drained or ill-ventilated as to be unsanitary, he may, after not less than forty-eight hours' notice in writing, to be served by affixing the notice on the inside of the main entrance door of said bakery, order the person found in charge thereof immediately to cease operating it until it shall be properly cleaned, drained or ventilated. If such bakery be thereupon continued in operation or be thereafter operated before it be properly cleaned, drained or ventilated, the commissioner of labor may, after first making and filing in the public records of his office a written order stating the reasons therefor, at once and without further notice fasten up and seal the oven or other cooking apparatus of said bakery, and affix to all materials, receptacles, tools and instruments found therein, labels or conspicuous signs bearing the word "unclean." No one but the commissioner of labor shall remove any such seal, label or sign, and he may refuse to remove it until such bakery be properly cleaned, drained or ventilated. [*As am'd by L. 1911, ch. 637.*]

ARTICLE 9.

Mines, Tunnels and Quarries and Their Inspection.

[*Non-compliance with the provisions of this article is a misdemeanor (Penal Law, § 1270, subd. 2). Violation of any of the safety provisions of the article renders the master liable in case of injury to employees (§ 202, post).*]

Section 120. Duties of commissioner of labor relating to mines, tunnels and quarries; record and report.

121. Outlets of mines.

122. Ventilation and timbering of mines and tunnels.

123. Riding on loaded cars; storage of inflammable supplies.

Section 124. Inspection of steam boilers and apparatus; steam, air and water
* gauges.

- 125. Use of explosives; blasting.
- 126. Report of accidents.
- 127. Notice of dangerous condition.
- 128. Traveling ways.
- 129. Notice of opening new mine, shaft or quarry.
- 130. Notice of abandonment.
- 131. Employment of women and children.
- 132. Underground workings to be equipped with head house and doors.
- 133. Mines and tunnels to be equipped with wash-rooms.
- 134. Method of exploding blasts.
- 134-a. Hours of labor.
- 134-b. Medical attendance and regulations.
- 134-c. Penalties.
- 135. Enforcement of article.
- 136. Admission of inspectors to mines and tunnels.

§ 120. Duties of commissioner of labor relating to mines, tunnels and quarries; record and report.—The commissioner of labor shall see that every necessary precaution is taken to insure the safety and health of employees employed in the mines and quarries and in the construction of tunnels of the state and shall prescribe rules and regulations therefor; [†] keep a record of the names and location of such mines, tunnels and quarries, and the names of the persons or corporations owning or operating the same; collect data concerning the working thereof; examine carefully into the method of timbering shafts, drifts, inclines, slopes and tunnels, through which employees and other persons pass, in the performance of their daily labor, and see that the persons or corporations owning and operating such mines and quarries and constructing tunnels comply with the provisions of this chapter; and such information shall be furnished by the person operating such mine, tunnel or quarry, upon the demand of the commissioner of labor.

The commissioner of labor shall keep a record of all mine, tunnel and quarry examinations, showing the date thereof, and the condition in which the mines, tunnels and quarries are found, and the manner of working the same. He shall make an annual report to the legislature during the month of January, containing a statement of the number of mines, tunnels and quarries visited, the number in operation, the number of men employed, and the number and cause of accidents, fatal and non-fatal, that may have occurred in and about the same.

§ 121. Outlets of mines.—If, in the opinion of the commissioner of labor, it is necessary for safety of employees, the owner, operator or superintendent of a mine operating through either a vertical or inclined shaft, or a horizontal tunnel, shall not employ any person therein unless there are in connection with the subterranean workings thereof not less than two openings or outlets, at least one hundred and fifty feet apart, and connected with each other. Such openings or outlets shall be so constructed as to provide safe and distinct means of ingress and egress from and to the surface, at all times, for the use of the employees of such mine.

* So in original.

† See present rules and regulations prescribed by Commissioner of Labor following § 136, *post*.

§ 122. **Ventilation and timbering of mines and tunnels.**—In each mine or tunnel a ventilating current shall be conducted and circulated along the face of all working places and through the roadways, in sufficient quantities to insure the safety of employees and remove smoke and noxious gases.

Each owner, agent, manager or lessee of a mine or tunnel shall cause it to be properly timbered, and the roof and sides of each working place therein properly secured. No person shall be required or permitted to work in an unsafe place or under dangerous material, except to make it secure.

§ 123. **Riding on loaded cars; storage of inflammable supplies.**—No person shall ride or be permitted to ride on any loaded car, cage or bucket into or out of a mine or tunnel in process of construction. No powder or oils of any description shall be stored in a mine, tunnel or quarry, or in or around shafts, engine or boiler-houses, and all supplies of an inflammable and destructive nature shall be stored at a safe distance from the mine or tunnel openings.

§ 124. **Inspection of steam boilers and apparatus; steam, air and water gauges.**—All boilers used in generating steam for mining or tunneling purposes shall be kept in good order, and the owner, agent, manager or lessee of such mine or tunnel shall have such boilers inspected by a competent person, approved by the commissioner of labor, once in six months, and shall file a certificate showing the result thereof in the mine or tunnel office and a duplicate thereof in the office of the commissioner of labor. All engines, brakes, cages, buckets, ropes and chains shall be kept in good order and inspected daily by the superintendent of the mine or tunnel or a person designated by him. All lifts, hoists, ropes and other mechanical devices shall be properly designed and maintained to sustain the weight intended to be placed thereon or suspended therefrom, such factors of safety being used as are generally accepted as sufficient by competent engineers, and all cars and lifts shall be supplied with safety brakes. All hoisting ropes shall at all times be of a breaking strength of not less than five times the gross load suspended from them, including weight of rope itself. Each boiler or battery of boilers used in mining or tunneling for generating steam, shall be provided with a proper safety valve and with steam and water gauges, to show, respectively, the pressure of steam and the height of water in the boilers. Every boiler-house in which a boiler or nest of boilers is placed, shall be provided with a steam gauge properly connected with the boilers, and another steam gauge shall be attached to the steam pipe in the engine-house, and so placed that the engineer or fireman can readily ascertain the pressure carried. Every tunnel in which men are working under artificial air pressure shall be furnished with properly equipped and placed gauges capable at all times of showing the weight or pressure of air in said tunnel, and said gauge shall at all times during working hours be accessible to all persons working on said tunnel.

§ 125. **Use of explosives; blasting.**—When high explosives other than gunpowder are used in a mine, tunnel or quarry, the manner of storing, keeping, moving, charging and firing, or in any manner using such explosives, shall be in accordance with rules [*] prescribed by the commissioner of labor.

In charging holes for blasting, in slate, rock or ore in any mine, tunnel or quarry, no iron or steel pointed needle or tamping bar shall be used, unless the end thereof is tipped with at least six inches of copper or other soft

* See rules and regulations prescribed by Commissioner of Labor, following § 136, *post*.

material. No person shall be employed to blast, unless the mine or tunnel superintendent, or person having charge of such mine or tunnel is satisfied that he is qualified, by experience, to perform the work with ordinary safety. When a blast is about to be fired in a mine or tunnel, timely notice thereof shall be given by the person in charge of the work, to all persons who may be in danger therefrom.

§ 126. Report of accidents.—Whenever loss of life or an accident causing an injury incapacitating any person for work shall occur in the operation of a mine or quarry, or in the construction or repair of a tunnel, the owner, agent, manager, lessee, contractor, subcontractor, or person in charge thereof, shall keep a correct record of all deaths, accidents or injuries sustained by any person therein or on the premises or works, in such form as may be required by the commissioner of labor. Such record shall be open to the inspection of the commissioner of labor and a copy thereof shall be furnished to the said commissioner on demand. Within forty-eight hours after the accident, death or injury a report thereof shall be made in writing to the commissioner of labor, stating as fully as possible the cause of the death or the extent and cause of the injury, and the place where the injured person has been sent, with such other or further information relative thereto as may be required by the said commissioner, who may investigate the causes thereof and require such precautions to be taken as will prevent the recurrence of similar happenings. No statement contained in any such report shall be admissible in evidence in any action arising out of the death or accident therein reported. [*As am'd by L. 1910, ch. 155.*]

Compare § 20-a *ante* (building accidents) and § 87 (factory accidents).

§ 127. Notice of dangerous condition.—If the commissioner of labor, after examination or otherwise, is of the opinion that a mine or tunnel or any thing used in the operation thereof is unsafe, he shall immediately serve a written notice, specifying the defects, upon the owner, agent, manager or lessee, who shall forthwith remedy the same.

§ 128. Traveling ways.—In all mines there shall be cut out of or around the sides of every hoisting shaft or driven through the solid strata at the bottom thereof, a traveling way not less than five feet high and three feet wide to enable persons to pass the shaft in going from one side to the other without passing over or under or in the way of the cage or other hoisting apparatus.

§ 129. Notice of opening new mine, shaft or quarry.—Whenever a mine or quarry operator has engaged or is about to engage in the development of new industries by the sinking of new shafts, inclines, tunnels or quarries, he shall report to the commissioner of labor, giving the name of the owner or owners, and the location of the property, before the work of excavation shall have reached the depth of twenty-five feet.

§ 130. Notice of abandonment.—It shall be the duty of every mine or quarry operator to notify the commissioner of labor of the discontinuance or abandonment of any mine or quarry, when and in the event that such mine or quarry shall be closed permanently or abandoned.

§ 131. Employment of women and children.—No child under sixteen years of age shall be employed, permitted or suffered to work in or in connection with any mine or quarry in this state. No female shall be employed, permitted or suffered to work in any mine or quarry in this state.

§ 132. Underground workings to be equipped with head house and doors.—Every underground working where the depth exceeds forty feet shall be equipped with a proper head house and trapdoors.

§ 133. Mines and tunnels to be equipped with wash-rooms.—Every mine, tunnel or quarry employing over twenty-five men shall maintain a suitably equipped and heated wash-room, which shall be at all times accessible to the men employed.

§ 134. Method of exploding blasts.—No blast shall be exploded by an electric current of more than two hundred and fifty volts.

§ 134-a. Hours of labor.—All work in the prosecution of which tunnels, caissons or other apparatus or means in which compressed air is employed are used shall be conducted subject to the following restrictions and regulations: When the air pressure in any compartment, caisson, tunnel or place in which men are employed is greater than normal and does not exceed twenty-eight pounds to the square inch, no employee shall be permitted to work or remain therein more than eight hours in any twenty-four hours and shall only be permitted to work under such air pressure provided he shall during such period return to the open air for an interval of at least thirty consecutive minutes, which interval his employer shall provide for. When the air pressure in any such compartment, caisson, tunnel or place shall exceed twenty-eight pounds to the square inch, and shall not equal thirty-six pounds to the square inch, no employee shall be permitted to work or remain therein more than six hours, such six hours to be divided into two periods of three hours each, with an interval of at least one hour between each such period. When the air pressure in any such compartment, caisson, tunnel or place shall equal thirty-six pounds to the square inch and shall not equal forty-two pounds to the square inch, no such employee shall be permitted to work or remain therein more than four hours in any twenty-four hours, such four hours to be divided into periods of not more than two hours each, with an interval of at least two hours between each such period; when the air pressure in any such compartment, caisson, tunnel or place shall equal forty-two pounds to the square inch and shall not equal forty-six pounds to the square inch, no employee shall be permitted to work or remain therein more than three hours in any twenty-four hours, such three hours to be divided into periods of not more than ninety minutes each, with an interval of at least three hours between each such period; when the air pressure in any such compartment, caisson, tunnel or place shall equal forty-six pounds to the square inch and shall not equal fifty pounds to the square inch, no employee shall be permitted to work or remain therein more than two hours in any twenty-four hours, such two hours to be divided into periods of one hour each, with an interval of not less than four hours between each such period; no employee shall be permitted to work in any compartment, caisson, tunnel or place where the pressure shall exceed fifty pounds to the square inch, except in case of emergency. No person employed in work in compressed air shall be permitted by his employer or by the person in charge of said work to pass from the lock in which the work is being done to atmosphere of normal pressure, without passing through an intermediate lock or stage of decompression, which said decompression shall be at the rate of three pounds every two minutes unless the pressure shall be over thirty-six pounds, in which event the decompression shall be at the rate of one pound

per minute. Instruments shall be fitted in all caissons and air locks showing the actual pressure prevailing. [Added by L. 1909, ch. 291.]

§ 134-b. Medical attendance and regulations.—Any person or corporation carrying on any work in the prosecution of which tunnels, caissons or other apparatus or means in which compressed air is employed are used shall employ and keep in employment during the prosecution of such work at the place where it is being carried on one or more duly qualified persons to act as medical officer or officers who shall be in attendance at all times while such work is in progress and whose duty it shall be to administer and strictly enforce the following:

(a) No person shall be permitted to work in compressed air until after he shall have been examined by such medical officer and reported by such officer to the person in charge thereof as found to be qualified, physically, to engage in such work.

(b) In the event of absence from work, by an employee for three or more successive days for any cause, he shall not resume work until he shall have been re-examined by the medical officer and his physical condition reported as hitherto provided to be such as to permit him to work in compressed air.

(c) No person known to be addicted to the excessive use of intoxicants shall be permitted to work in compressed air.

(d) No person not having previously worked in compressed air shall be permitted during the first twenty-four hours of his employment to work for longer than one-half of a period as provided in section one hundred and thirty-four-a and after so working shall be re-examined and not permitted to work unless his physical condition be reported by the medical officer as heretofore provided to be such as to qualify him for such work.

(e) After a person has been employed continuously in compressed air for a period of three months he shall be re-examined by the medical officer and he shall not be allowed, permitted or compelled to work until such examination has been made and he has been reported as heretofore provided as physically qualified to engage in compressed air work.

(f) The said medical officer shall at all times keep a complete and full record of examinations made by him which record shall contain dates on which examinations were made and a clear and full description of the person examined, his age and physical condition at the time examined, also the statement as to the time such person has been engaged in like employment.

(g) Properly heated, lighted and ventilated dressing rooms shall be provided for all employees in compressed air which shall contain lockers and benches and shall be open and accessible to the men during the intermission between shifts. Such rooms shall be provided with baths, with hot and cold water service and a proper and sanitary toilet.

(h) A medical lock shall be established and maintained in connection with all work in compressed air as herein provided. Such lock shall be kept properly heated, lighted and ventilated and shall contain proper medical and surgical equipment. Such lock shall be in charge of the medical officer. [Added by L. 1909, ch. 291.]

§ 134-c. Penalties.—Every person who, or corporation which, shall violate or fail to comply with any of the foregoing provisions shall be guilty of a misdemeanor which shall be punishable by a fine of not less than two hun-

dred and fifty dollars or imprisonment for one year or both. [Added by L. 1909, ch. 291.]

§ 135. Enforcement of article.—The commissioner of labor may serve a written notice upon the owner, agent, manager or lessee of a mine or tunnel requiring him to comply with a specified provision of this article. The commissioner of labor shall begin an action in the supreme court to enforce compliance with such provision; and upon such notice as the court directs an order may be granted, restraining the working of such mine or tunnel during such time as may be therein specified.

§ 136. Admission of inspectors to mines and tunnels.—The owner, agent, manager or lessee of a mine or tunnel, at any time, either day or night, shall admit to such mine or tunnel, or any building used in the operation thereof, the commissioner of labor or any qualified person duly authorized by him, for the purpose of making the examinations and inspections necessary for the enforcement of this article, and shall render any necessary assistance for such inspections.

RULES AND REGULATIONS PRESCRIBED BY THE COMMISSIONER OF LABOR.

[By authority of Sections 120 and 125 above.]

FOR MINES AND QUARRIES.

Superintendent.—1. The mine superintendent shall pay particular attention to discipline. All inspections shall be reported to him. He shall see that all the provisions of the law and of these rules are enforced in his mine. He shall watch all work done by contractors to see that they comply with the law and these rules.

Daily inspection.—2. The superintendent shall designate a competent person, who shall each day make an inspection of all mining appliances, boilers, engines, magazines, shafts, shafthouses, underground workings, roofs, pillars, timbers, explosives, bell-ropes, telephones, operating tubes, tracks, ladders, etc., and report any defects to the superintendent, in writing, at once.

Boilers.—3. Superintendents shall require a strict compliance with § 124 of the Labor Law regarding boiler inspection. Boilers shall be examined daily, and any imperfections reported to the master mechanic or superintendent at once.

Timbering.—4. Timber shall be of ample size and strength and shall be used freely and wherever there is any chance of danger. Only new or properly seasoned timber shall be used, and shall be inspected carefully for rot or other defects before using and periodically thereafter.

Air.—5. The use of air instead of steam for drilling in all underground workings is advised.

Signals.—6. Special attention shall be given to the matter of signals and to keeping the appliances therefor in order. The bell line shall be of ample strength and kept free and clear of all rock and timbers. Shafts of 400 feet or over shall have speaking tubes or telephones from the foot of the shaft to the engine-room. A code of signals shall be posted at different parts of the workings and particularly at the shafthead, together with a notice of a penalty for wrong signals. Wrong signals should be severely punished.

Ladderways.—7. Ladders shall be strong and intact. In vertical shafts and in deep pitching inclines there should be landings not more than twenty feet apart, and closely covered except a hole large enough for a man to pass to the next ladder. In inclines, there shall be a hand-rail attached to the ladder, and wherever possible steps should be used with hand-rail attached.

The shaft.—8. The shafthead shall be covered and guarded so as to prevent accidents from persons falling into it, or from foreign objects dropping down. Automatic doors should, in most cases, be used. The manway shall be around and not across the shafthead. The timbering of the shaft shall be sounded and

examined often, as it decays rapidly under certain conditions. Inside shafts, winzes, and shutes shall be carefully guarded. When sinking or continuing a shaft below levels where the work of mining is being carried on, the collars at the lower level shall be covered to prevent objects from falling down the shaft, and such covering should be composed of timber not less than four inches in thickness; and where a cage is used a bonnet shall be placed over it.

Hoisting engineers.—9. Superintendents shall use extraordinary care to see that their engineers are mentally and physically qualified for their positions. Where persons are lowered into or hoisted out of a mine, engineers shall be not less than 21, otherwise not less than 18 years of age. They shall never delegate the control of the machinery to any other person, and no one shall interfere with them in their duties.

10. The hoisting engineer shall be in constant attendance at his engine or boilers whenever there are workmen underground.

11. The engineer shall not permit any one to enter or loiter in the engine-room except those required by their positions or duties to do so, and he shall hold no conversation with anyone while the engine is in motion or while his attention should be occupied with signals. A notice to that effect shall be posted on the door of the engine house.

12. The engineer must thoroughly understand the code of signals, which must be delivered in the engine room in a clear and unmistakable manner; and when he receives a signal that men are in the cage or carriage he must work his engine with extra care and only at a moderate rate of speed.

13. The engineer or some other specifically designated and properly qualified employee must keep a careful watch over the engine, boilers, pumps, ropes and winding apparatus, and see that boilers are supplied with water, cleaned and inspected at frequent intervals and that the steam pressure does not exceed the prescribed limit; and he shall frequently try the safety valves and shall not increase the weights thereon. He shall see that the steam and water gauges are always in good order, and if any of the pumps, valves or gauges become deranged, he shall promptly report the facts to his superiors.

Hoisting machinery.—14. Machinery used for lowering or raising employees into or out of mines and stairs for ingress and egress shall be kept in a safe condition and inspected each twenty-four hours by a competent person especially designated for that purpose.

15. The operator, or superintendent shall provide and maintain from the top to the bottom of every shaft where persons are raised or lowered, a telephone or a metal tube suitably adapted to the free passage of sound, through which conversation may be held between persons at the top and bottom of said shaft, and also other means of signaling from the top to the bottom thereof, and shall provide every cage or gear carriage used for hoisting or lowering persons with a proper safety catch and with a sufficient overhead covering to protect them while using it. And he shall see that the flanges, with a clearance of not less than four inches where the whole of the rope is wound on the drum, are attached to the side of the drum of every machine that is used for lowering and hoisting persons; that adequate brakes are attached to the drum, and that safety gates are so placed at all shafts as to prevent persons from falling in.

16. The main governing chain attached to the socket of the wire rope shall be made of the best quality of iron and shall be properly tested; and the bridle chain shall be attached to the hoisting rope above the socket from the top cross-piece of the carriage or cage so that no single chain shall be used for lowering or hoisting persons.

17. No greater number of persons shall be lowered or hoisted at any one time than may be allowed by the Commissioner of Labor; and notice of the maximum number allowed to be lowered or hoisted at any one time shall be kept posted in a conspicuous place at the top of the shaft.

Dangerous machinery.—18. All machinery about mines from which any accidents are liable to occur shall be suitably guarded or railed off.

Fire.—19. All oil waste, candles, etc., shall be stored at a safe distance from the boiler-house, engine-room and shafthouse, and a quantity of water shall be stored at such place to guard against fire. All shafthouses shall have ample

fire protection, and the appliances shall be kept in condition for instant use. All mining plants using steam should have a hose attached to the injector or feed pipe for use in case of fire.

Storing explosives.—20. All explosives shall be stored in a magazine provided for that purpose, and located far enough from the working-shaft, slope or tunnel, boiler-house, or engine-room, so that in case the whole quantity should be exploded, there would be no danger, and all explosives in excess of what are needed for one shift shall be kept in the magazine. Such magazine should be fireproof, and so constructed that a modern rifle or pistol bullet cannot penetrate it. A suitable place for thawing powder shall be provided and kept in condition for use. The hot water or steam bath device should be used. Dry heat shall never be used. A receptacle for carrying explosives shall be provided. Exploders and powder shall not be kept in the same room. A suitable place separated from mine boilers or engine-room shall be provided for preparing charges. One man shall have full charge of the magazine. (See further the special rules for handling dynamite below.)

Blasting.—21. All blasting shall be done by one man and his helper, designated by the superintendent for that purpose. After blasting no one else shall be allowed in that part of the mine until the blaster has made a personal examination and pronounced "all over." If a blast misses fire, no one except the blaster and his helper shall be allowed in that part of the mine less than three hours thereafter unless and until the blaster has made a personal examination and pronounced "all safe." No person shall use or handle any explosives who is addicted to the use of intoxicants. All tamping of high explosives shall be done with a wooden bar. Timely and sufficient warning shall be given when a blast is about to be fired.

FOR STORING, KEEPING, MOVING, THAWING, CHARGING AND FIRING DYNAMITE.

Storing and keeping.—1. Dynamite must be stored in a building separate and isolated from other buildings and from traffic. Caps and electric exploders and fuses must never be stored in the *same* building with the powder, but must always be kept apart until needed for preparing the charge.

Moving.—2. When dynamite is hauled in wagons, railway trains, mine cars or similar vehicles, the *greatest* care must be exercised, and neither percussion caps, exploders, fulminators, friction matches nor any other article of like nature shall be loaded in the same wagon, car or vehicle.

Thawing powder.—3. All nitro-glycerine compounds freeze and become hard at about 42 degrees Fahrenheit, in which condition they will not readily explode. When large quantities are to be used, a separate building for thawing should be fitted with a small steam radiator. Use only exhaust steam for heating it, if possible keeping the temperature of the rooms at about 80 degrees Fahrenheit. In the part of the room farthest from the radiator, place the powder on racks to thaw. When but small quantities need to be thawed, a thawing kettle may be used, being two water-tight kettles (one smaller and placed inside the other), the cartridges placed in the smaller kettle, the space between the two kettles filled with hot water of from 120 to 130 degrees Fahrenheit, and the kettle fitted with a cover to retain the heat. Never place the kettle over the fire to heat. When more hot water is required, empty and fill again with hot water. Never attempt to thaw the powder by placing it in hot water or exposing it to the direct action of steam.

Precautions.—4. Powder must *never* be placed on, in or near hot steam pipes, steam boilers, a hot stove, nor any hot metal, nor exposed to radiated heat from a fire or hot stove. Never roast, toast or bake it in any way, nor take it near a blacksmith forge. Never allow *smoking* or fire of any description, nor leave any loose caps or fuse near it.

Preparing a charge.—5. Cut a piece of safety fuse to the right length and carefully insert the fresh cut end in a blasting cap. See that the cap is free from any particle of sawdust before inserting the fuse. Press the fuse gently into the cap as far as it will go. Crimp the open end of the cap tightly around the fuse with a pair of cap-nippers, but under no consideration disturb the fulminate or

filling in the cap. Then open one end of the cartridge carefully, and with a sharp ened lead pencil or pointed wooden stick, make a hole in the powder, insert the capped end of the fuse, being careful to see that at least one-fourth of an inch of the cap remains out of the powder. Then draw the paper closely about the fuse and tie in with a strong cord.

Charging the drill-hole.—6. Having properly prepared the cartridges (being sure that none are frozen) push them gently to the bottom of the drilled hole with a wooden stick, putting the capped cartridge on top.

Tamping.—7. Having placed the required quantity of powder in the hole, cover with six or eight inches of loose tamping, press it down firmly with a *wooden* stick, after which the hole may be tamped to the top, ramming the tamping down hard. Never use an iron or metal bar. Wood is always sufficient.

Misfire.—8. In case of misfires, never attempt to remove the tamping or draw the charge; always drill a new hole.

FOR THE DAILY GUIDANCE OF EMPLOYEES.

1. No employee shall ride on any loaded skip, car, cage or bucket nor walk up or down any slope, or shaft, while any skip, car, cage or bucket is above.
2. The pit boss shall carefully examine the hanging wall of all slopes, levels and working chambers daily.
3. Machine runners shall carefully examine and sound hanging wall at face working, and remove all loose rock or ore before proceeding to drill.
4. No employees shall handle any explosives nor do any blasting except the person or persons designated for that special purpose by the superintendent.
5. After blasting no one except the blaster or blasters shall be allowed in the part of the mine where such blast has been fired, until the blaster has made a personal examination, and pronounced all safe.
6. No iron or steel bar, unless tipped with six inches of copper or other soft metal, shall be used for tamping any explosive. When tamping dynamite, or other high explosives, wood only shall be used.
7. The mine superintendent or person designated by him shall examine daily all mining appliances and see that they are in safe condition.
8. Whenever a shot misses fire no one shall be allowed to return to that part of the mine in less than three hours, unless and until the blaster after a personal examination shall pronounce all safe.
9. No person addicted to the use of intoxicating drink shall have charge of any explosives, boiler, engine or hoist, nor shall any person be allowed in any part of the mine while under the influence of liquor.

FOR WORK OF EXCAVATION AND CONSTRUCTION OF TUNNELS CARRIED ON IN COMPRESSED AIR.—SUPPLEMENTING §§ 134-a and 134-b.

LOCKS.

Where practicable each bulkhead in the tunnel shall have at least two locks in perfect working condition.

The man lock shall be large enough so that those using it are not compelled to be in a cramped position.

The emergency lock shall be large enough to hold an entire heading shift.

Every lock must be lighted by electricity and shall contain a pressure gauge and a timepiece, and shall have a glass "bull's-eye" in each door or in each end.

Valves must be so arranged that the locks can be operated both from within and from without.

Each man lock shall be in charge of a competent lock tender.

LIGHT, SANITATION AND VENTILATION IN AIR CHAMBER.

All lighting in compressed air chambers shall be by electricity only, except in cases of emergency.

Absolutely no nuisance shall be tolerated in the air chamber, and smoking shall be strictly prohibited.

No animals for hauling shall be permitted in the air chambers.

An air-supply pipe shall be carried as near to the face as may be practicable and necessary. The air shall be analyzed at least once in every forty-eight hours, and the percentage of CO₂ shall not be greater than 1/10 of one per cent above that of the air being compressed.

The exhaust valves shall be operated at certain intervals, especially after a blast, and men shall not be required to resume work after a blast until the gas and smoke have cleared sufficiently.

Persons in the air chamber must be able to communicate with the powerhouse on the surface by means of suitable devices at all times.

GAUGES.

In addition to the gauges in the locks, an accurate gauge shall be maintained on the outer side of each bulkhead. These gauges shall be accessible at all times and shall be kept in accurate working order.

SAFETY SCREENS.

Where practicable, safety screens shall be installed after the heading has proceeded beyond the bulkhead line.

GENERAL.

A record of all men working in the air chambers shall be kept by a special man who shall remain outside the lock near the entrance. This record shall show the period of stay in the air chamber of each person and the time taken for decompression.

A liberal supply of hot coffee and sugar shall be supplied to men working in compressed air. Coffee must be heated by means other than direct steam.

ARTICLE 10.

Bureau of Mediation and Arbitration.

Section 140. Chief mediator.

- 141. Mediation and investigation.
- 142. Board of mediation and arbitration.
- 143. Arbitration by the board.
- 144. Decisions of board.
- 145. Annual report.
- 146. Submission of controversies to local arbitrators.
- 147. Consent; oath; powers of arbitrators.
- 148. Decision of arbitrators.

§ 140. Chief mediator.—There shall continue to be a bureau of mediation and arbitration. The second deputy commissioner of labor shall be the chief mediator of the state and in immediate charge of this bureau, but subject to the supervision and direction of the commissioner of labor.

Cf. § 42, ante.

§ 141. Mediation and investigation.—Whenever a strike or lockout occurs or is seriously threatened an officer or agent of the bureau of mediation and arbitration shall, if practicable, proceed promptly to the locality thereof and endeavor by mediation to effect an amicable settlement of the controversy. If the commissioner of labor deems it advisable the board of mediation and arbitration may proceed to the locality and inquire into the cause thereof, and for that purpose shall have all the powers conferred upon it in the case of a controversy submitted to it for arbitration.

§ 142. Board of mediation and arbitration.—There shall continue to be a state board of mediation and arbitration, which shall consist of the chief mediator and two other officers of the department of labor to be from time to time designated by the commissioner of labor. The chief mediator when

present shall be the chairman of the board. Two members of such board shall constitute a quorum for the transaction of business, and may hold meetings at any time or place within the state. Examinations or investigations ordered by the board may be held and taken by and before any of their number, if so directed, but a decision rendered in such a case shall not be deemed conclusive until approved by the board.

§ 143. Arbitration by the board.—A grievance or dispute between an employer and his employees may be submitted to the board of arbitration and mediation for their determination and settlement. Such submission shall be in writing, and contain a statement in detail of the grievance or dispute and the cause thereof, and also an agreement to abide the determination of the board, and during the investigation to continue in business or at work, without a lockout or strike. Upon such submission, the board shall examine the matter in controversy. For the purpose of such inquiry they may subpoena witnesses, compel their attendance, take and hear testimony, and call for and examine books, papers and documents of any parties to the controversy. Subpoenas shall be issued by the chairman under the seal of the department of labor. Witnesses shall be allowed the same fees as in courts of record. The decision of the board must be rendered within ten days after the completion of the investigation.

§ 144. Decisions of board.—Within ten days after the completion of every arbitration, the board or a majority thereof shall render a decision, stating such details as will clearly show the nature of the controversy and the points disposed of by them, and make a written report of their findings of fact and of their recommendations to each party of the controversy. Every decision and report shall be filed in the office of the board and a copy thereof served upon each party to the controversy.

§ 145. Annual report.—The commissioner of labor shall make an annual report to the legislature of the operations of this bureau.

§ 146. Submission of controversies to local arbitrators.—A grievance or dispute between an employer and his employees may be submitted to a board of arbitrators, consisting of three persons, for hearing and settlement. When the employees concerned are members in good standing of a labor organization, one arbitrator may be appointed by such organization and one by the employer. The two so designated shall appoint a third, who shall be chairman of the board. If such employees are not members of a labor organization, a majority thereof at a meeting duly called for that purpose, may designate one arbitrator for such board.

§ 147. Consent; oath; powers of arbitrators.—Before entering upon his duties, each arbitrator so selected shall sign a consent to act and take and subscribe an oath to faithfully and impartially discharge his duties as such arbitrator, which consent and oath shall be filed in the clerk's office of the county or counties where the controversy arose. When such board is ready for the transaction of business, it shall select one of its members to act as secretary, and notice of the time and place of hearing shall be given to the parties to the controversy. The board may, through its chairman, subpoena witnesses, compel their attendance and take and hear testimony. The board may make and enforce rules for its government and the transaction of the business before it, and fix its sessions and adjournments.

§ 148. Decision of arbitrators.—The board shall, within ten days after the close of the hearing, render a written decision signed by them giving such details as clearly show the nature of the controversy and the questions decided by them. One copy of the decision shall be filed in the office of the clerk of the county or counties where the controversy arose and one copy shall be transmitted to the bureau of mediation and arbitration.

ARTICLE 10-a.

Bureau of Industries and Immigration.

[Added by L. 1910, ch. 514.]

Section 151. Bureau of industries and immigration.

152. Special investigators.

153. General powers and duties.

154. Proceedings before the commissioner of labor.

155. Registration and reports of employment agencies.

156. Reports.

156-a. The licensing and regulation of immigrant lodging places. [Added in 1911.]

§ 151. Bureau of industries and immigration.—There shall be a bureau of industries and immigration, which shall be under the immediate charge of a chief investigator, but subject to the supervision and direction of the commissioner of labor.

Cf. § 42, ante.

§ 152. Special investigators.—The commissioner of labor may appoint from time to time not more than twelve persons as special investigators, not more than two of whom shall be women, and who may be removed by him at any time. The special investigators may be divided into two grades. Each special investigator of the first grade shall receive an annual salary of twelve hundred dollars, and each of the second grade an annual salary of fifteen hundred dollars.

§ 153. General powers and duties.—1. The commissioner of labor shall have the power to make full inquiry, examination and investigation into the condition, welfare and industrial opportunities of all aliens arriving and being within the state. He shall also have power to collect information with respect to the need and demand for labor by the several agricultural, industrial and other productive activities, including public works throughout the state; to gather information with respect to the supply of labor afforded by such aliens as shall from time to time arrive or be within the state; to ascertain the occupations for which such aliens shall be best adapted, and to bring about intercommunication between them and the several activities requiring labor which will best promote their respective needs; to investigate and determine the genuineness of any application for labor that may be received and the treatment accorded to those for whom employment shall be secured; to co-operate with the employment and immigration bureaus conducted under authority of the federal government or by the government of any other state, and with public and philanthropic agencies designed to aid in the distribution and employment of labor; and to devise and carry out

such other suitable methods as will tend to prevent or relieve congestion and obviate unemployment.

2. The commissioner of labor shall procure with the consent of the federal authorities complete lists giving the names, ages and destination within the state of all alien children of school age, and such other facts as will tend to identify them, and shall forthwith deliver copies of such lists to the commissioner of education or the several boards of education and school boards in the respective localities within the state to which said children shall be destined, to aid in the enforcement of the provisions of the education law relative to the compulsory attendance at school of children of school age.

3. The commissioner of labor shall further co-operate with the commissioner of education and with the several boards of education and school commissioners in the state, to devise methods for the proper instruction of adult and minor aliens in the English language and in respect to the duties and rights of citizenship and the fundamental principles of the American system of government, and otherwise to further their education.

4. The commissioner of labor may inspect all labor camps within the state; and shall inspect all employment and contract labor agencies dealing principally with aliens, or who secure or negotiate contracts for their employment within the state; shall co-operate with other public authorities, to enforce all laws applicable to private bankers dealing with aliens and laborers; secure information with respect to such aliens who shall be in prisons, almshouses and insane asylums of the state, and who shall be deportable under the laws of the United States, and co-operate with the federal authorities and with such officials of the state having jurisdiction over such criminals, paupers and insane aliens who shall be confined as aforesaid, so as to facilitate the deportation of such persons as shall come within the provisions of the aforesaid laws of the United States, relating to deportation; shall investigate and inspect institutions established for the temporary shelter and care of aliens, and such philanthropic societies as shall be organized for the purpose of securing employment for or aiding in the distribution of aliens, and the methods by which they are conducted.

5. The commissioner of labor shall investigate conditions prevailing at the various places where aliens are landed within this state, and at the several docks, ferries, railway stations and on trains and boats therein, and in co-operation with the proper authorities, afford them protection against frauds, crimes and exploitation; shall investigate any and all complaints with respect to frauds, extortion, incompetency and improper practices by notaries public, interpreters and other public officials, and present to the proper authorities the results of such investigation for action thereon; shall investigate and study the general social conditions of aliens within this state, for the purpose of inducing remedial action by the various agencies of the state possessing the requisite jurisdiction; and shall generally, in conjunction with existing public and private agencies, consider and devise means to promote the welfare of the state.

§ 154. Proceedings before the commissioner of labor.— Any investigation, inquiry or hearing which the commissioner of labor has power to undertake or to hold may by special authorization from the commissioner of labor be

undertaken or held by or before the chief investigator, and any decision rendered on such investigation, inquiry or hearing, when approved and confirmed by the commissioner and ordered filed in his office, shall be and be deemed to be the order of the commissioner. All hearings before the commissioner or chief investigator shall be governed by rules to be adopted and prescribed by the commissioner; and in all investigations, inquiries or hearings the commissioner or chief investigator shall not be bound by technical rules of evidence. No person shall be excused from testifying or from producing any books or papers on any investigation or inquiry by or upon any hearing before the commissioner or chief investigator, when ordered to do so, upon the ground that the testimony or evidence, books or documents required of him may tend to incriminate him or subject him to a penalty or forfeiture, but no person shall be prosecuted, punished or subjected to any penalty or forfeiture for or on account of any act, transaction, matter or thing concerning which he shall under oath have testified or produced documentary evidence; provided, however, that no person so testifying shall be exempt from prosecution or punishment for any perjury committed by him in his testimony.

§ 155. **Registration and reports of employment agencies.**—The term "employment agency" as used in this act shall include any person, firm, corporation or association regularly engaging in the business of negotiating labor contracts or of receiving applications for help or labor, or for places or positions, excepting such as shall conduct agencies exclusively for procuring employment for teachers, for incumbents of technical, clerical or executive positions, for vaudeville or theatrical performers, musicians or nurses, and also excepting bureaus conducted by registered agricultural or medical institutions and, excepting also departments maintained by persons, firms, corporations or associations for the purpose of securing help for themselves where no fee is charged the applicant for employment. All employment agencies other than those herein excepted shall on or before the first day of October, nineteen hundred and ten, and annually thereafter, file with the commissioner of labor a statement containing the name of the person, firm, corporation or association conducting such agency, the street and number of the place where the same shall be conducted and showing whether said agency is licensed or unlicensed, and if licensed, specifying the date and duration of the license, by whom granted and the number thereof. Such statements shall be registered by the commissioner. Every such employment agency shall keep in the office thereof a full record of the country of the birth of those for whom places or positions are secured, their length of residence in this country, and the name and address of the person, firm or corporation to whom the persons for whom such places or positions are secured shall be sent, the occupation for which employment shall be secured, and the compensation to be paid to the person employed. The books and records of every such agency shall at all reasonable hours be subject to examination by the commissioner of labor. Any person who shall fail to register with the commissioner of labor or to keep books or records shall be guilty of a misdemeanor and shall be punishable for the first offense by a fine of not less than ten dollars, nor more than twenty-five dollars, and for every subsequent offense by a fine of not less than twenty-five dollars, nor more than one hundred dollars, or by

imprisonment for not more than thirty days, or by both such fine and imprisonment.

§ 156. Reports.—The commissioner of labor shall make an annual report to the legislature of the operation of this bureau.

§ 156-a. The licensing and regulation of immigrant lodging places.—1. No person shall hereafter, directly or indirectly, own, conduct or keep an immigrant lodging place without having first obtained from the commissioner of labor a license therefor. Before receiving such license the applicant therefor shall file with the commissioner of labor, in such form as he may prescribe, a statement verified by such applicant, or if said applicant is a corporation, by one of its officers, designating the location of the immigrant lodging place for which a license shall be requested, and specifying the number of boarders or lodgers received by said applicant at any one time during the year preceding such application at the place for which a license is sought, or if no business shall have previously been conducted at said place the maximum number of boarders or lodgers which it will accommodate. With such application there shall be presented to the commissioner of labor proof of the good moral character of the applicant, and in case such applicant is a corporation, of its officers, and in addition thereto a bond to the people of the state of New York, with two or more sureties or of a surety company approved by the commissioner of labor, conditioned that the obligor shall obey all laws, rules and regulations applicable to such immigrant lodging place prescribed by any lawful authority, and that such obligor shall discharge all obligations and pay all damages, loss and injuries which shall accrue to any person or persons dealing with such licensee, by reason of any contract or other obligation of such licensee or resulting from any fraud or deceit, conversion of property, oppression, excessive charges, or other wrongful act of said licensee or of his servants or agents in connection with the business so licensed. Where the number of boarders or lodgers specified in said application shall not exceed ten persons the penalty of said bond shall be one hundred dollars, where it shall be more than ten and less than fifty persons it shall be two hundred and fifty dollars, and where the number shall be more than fifty it shall be five hundred dollars. Any person aggrieved may bring an action for the enforcement of such bond in any court of competent jurisdiction. On the approval of the application for said license and of the bond filed therewith the commissioner of labor shall issue a license authorizing the applicant to own, conduct and manage an immigrant lodging place at the place designated in the application and to be specified in the license certificate. For such license the applicant shall pay to the commissioner of labor a fee of five dollars where the number of boarders or lodgers stated in the application does not exceed ten, a fee of ten dollars where such number exceeds ten and does not exceed fifty, and a fee of twenty-five dollars where such number exceeds fifty. Such license shall not be transferable without the consent of the commissioner of labor, nor authorize the conduct of an immigrant lodging place on any other premises than those described in the application. Such license shall be renewable annually on the payment of a fee based on the maximum number of boarders and lodgers received by the licensee at the place licensed during the preceding year. The commissioner of labor shall keep a book or books in which the licenses granted and the bonds filed shall be entered in

alphabetical order, together with a statement of the date of the issuance of the license, the name or names of the principals, the place where the business licensed is to be transacted, the names of the sureties upon the bond filed and the amount of the license fee paid by the licensee.

2. Every licensee shall keep conspicuously posted in the public rooms and in each bedroom of the place licensed a statement printed in the English language and in the language understood by the majority of the patrons of said place, specifying the rate of charges by the day and week for lodging, for meals supplied, for the transportation of passengers and baggage, the services of guides, and other service rendered to such patrons. No sum shall be charged or received by or for the licensee in excess of such posted rates for any service rendered, and payment shall not be enforceable for any charge in excess of such rates. A copy of the rates so posted shall be filed by the licensee with the commissioner of labor, and no increased rate shall be charged or received until a revised schedule showing such increase shall have been filed with the commissioner of labor. Every such licensee shall likewise file with the commissioner of labor a list specifying the names and addresses of every person employed by such licensee as a runner, guide or other employee, and showing whether such person is employed at a salary or on commission.

3. A license granted hereunder shall be revocable by the commissioner of labor on notice to the licensee and for cause shown.

4. The term immigrant lodging place as used in this section includes any place, boarding house, lodging house, inn or hotel where principally immigrants or emigrants while in transit, or aliens are received, lodged, boarded or harbored, which shall not include any place maintained or conducted by a charitable, philanthropic or religious society, association or corporation. Nothing contained herein shall be held to apply to temporary sleeping quarters in labor or construction camps.

5. Any person or any officer of a corporation owning, conducting or managing an immigrant lodging place without having obtained from the commissioner of labor a license therefor, or who shall carry on such business after the revocation of a license to carry on such business, or who shall violate any of the provisions of this section, shall be guilty of a misdemeanor.

6. The license fees collected hereunder shall be paid to the comptroller and shall constitute a fund to be used in the joint discretion of the comptroller and commissioner of labor for the expenses necessary for carrying out the provisions of this section. [*Added by L. 1911, ch. 845.*]

ARTICLE 11.

Employment of Women and Children in Mercantile Establishments.

[NOTE.—Until October 1, 1908, the enforcement of this article everywhere was in the hands of local boards of health. On October 1, 1908, enforcement in cities of the first class was transferred to the Department of Labor; elsewhere enforcement remains as before (§ 172.) Non-compliance with its provisions is a misdemeanor (Penal Law, § 1275, subd. 7, post).]

Section 160. Application of article.

161. Hours of labor of minors.

161-a. Hours of labor of messengers.

162. Employment of children.

- Section 163. Employment certificate; how issued.
 164. Contents of certificate.
 165. School record, what to contain.
 166. Summer vacation certificate. [*Repealed in 1911.*]
 167. Registry of children employed.
 168. Wash-rooms and water-closets.
 169. Lunch rooms.
 170. Seats for women in mercantile establishments.
 171. Employment of women and children in basements.
 172. Enforcement of article.
 173. Copy of article to be posted.

§ 160. Application of article.—The provisions of this article shall apply to all villages and cities which at the last preceding state enumeration had a population of three thousand or more.

§ 161. Hours of labor of minors.—No child under the age of sixteen years shall be employed, permitted or suffered to work in or in connection with any mercantile establishment, business office, or telegraph office, restaurant, hotel, apartment-house, theater or other place of amusement, bowling alley, barber shop, shoe-polishing establishment, or in the distribution or transmission of merchandise, articles or messages, or in the distribution or sale of articles more than six days or fifty-four hours in any one week, or more than nine hours in any one day, or before eight o'clock in the morning or after seven o'clock in the evening of any day. The foregoing provision shall not apply to any employment prohibited or regulated by section four hundred and eighty-five of the penal law. No female employee between sixteen and twenty-one years of age shall be required, permitted or suffered to work in or in connection with any mercantile establishment more than sixty hours in any one week; or more than ten hours in any one day, unless for the purpose of making a shorter work day of some one day of the week; or before seven o'clock in the morning or after ten o'clock in the evening of any day. This section does not apply to the employment of persons sixteen years of age or upward between the eighteenth day of December and the following twenty-fourth day of December, both inclusive. Not less than forty-five minutes shall be allowed for the noonday meal of the employees of any such establishment. Whenever any employee is employed or permitted to work after seven o'clock in the evening, such employee shall be allowed at least twenty minutes to obtain lunch or supper between five and seven o'clock in the evening. [*As Am'd by L. 1911, ch. 866.*]

Compare § 77, *ante*.

§ 161-a. Hours of labor of messengers.—In cities of the first or second class no person under the age of twenty-one years shall be employed or permitted to work as a messenger for a telegraph or messenger company in the distribution, transmission or delivery of goods or messages before five o'clock in the morning or after ten o'clock in the evening of any day. [*Added by L. 1910, ch. 342.*]

Compare Article 15, *post*, as to employment of children in street trades. See also Penal Law, § 488, under CHILD LABOR, *post*.

§ 162. Employment of children.—No child under the age of fourteen years shall be employed or permitted to work in or in connection with any

mercantile or other business or establishment specified in the preceding section. No child under the age of sixteen years shall be so employed or permitted to work unless an employment certificate, issued as provided in this article, shall have been theretofore filed in the office of the employer at the place of employment of such child. [*As Am'd by L. 1911, ch. 866.*]

Compare § 70, *ante*, and Education Law, §§ 626, 628, under CHILD LABOR, *post*.

§ 163. Employment certificate; how issued.—Such certificate shall be issued by the commissioner of health or the executive officer of the board or department of health of the city, town or village where such child resides or is to be employed, or by such officer thereof as may be designated by such board, department or commissioner for that purpose; upon the application of the parent, guardian or custodian of the child desiring such employment. Such officer shall not issue such certificate until he has received, examined, approved and filed the following papers duly executed, viz.: The school record of such child properly filled out and signed as provided in this article; also, evidence of age showing that the child is fourteen years old or upwards, which shall consist of the evidence thereof provided in one of the following subdivisions of this section and which shall be required in the order herein designated as follows:

(a) Birth certificate.—A duly attested transcript of the birth certificate filed according to law with a registrar of vital statistics or other officer charged with the duty of recording births which certificate shall be conclusive evidence of the age of such child.

(b) Certificate of graduation.—A certificate of graduation duly issued to such child showing that such child is a graduate of a public school of the state of New York or elsewhere, having a course of not less than eight years, or of a school in the state of New York other than a public school, having a substantially equivalent course of study of not less than eight years' duration, in which a record of the attendance of such child has been kept as required by article twenty of the education law, provided that the record of such school shows such child to be at least fourteen years of age.

(c) Passport or baptismal certificate.—A passport or a duly attested transcript of a certificate of baptism showing the date of birth and place of baptism of such child.

(d) Other documentary evidence.—In case it shall appear to the satisfaction of the officer to whom application is made, as herein provided, for an employment certificate, that a child for whom such certificate is requested and who has presented the school record, is in fact over fourteen years of age, and that satisfactory documentary evidence of age can be produced, which does not fall within any of the provisions of the preceding subdivisions of this section, and that none of the papers mentioned in said subdivisions can be produced, then and not otherwise he shall present to the board of health of which he is an officer or agent, for its action thereon, a statement signed by him showing such facts together with such affidavits or papers as may have been produced before him constituting such evidence of the age of such child, and the board of health, at a regular meeting thereof, may then, by resolution, provide that such evidence of age shall be fully entered on the minutes of such board, and shall be received as sufficient evidence of the age of such child for the purpose of this section.

(e) Physicians' certificates.—In cities of the first class only, in case application for the issuance of an employment certificate shall be made to such officer by a child's parent, guardian or custodian who alleges his inability to produce any of the evidence of age specified in the preceding subdivisions of this section, and if the child is apparently at least fourteen years of age, such officer may receive and file an application signed by the parent, guardian or custodian of such child for physicians' certificates. Such application shall contain the alleged age, place and date of birth, and present residence of such child, together with such further facts as may be of assistance in determining the age of such child. Such application shall be filed for not less than ninety days after date of such application for such physicians' certificates, for an examination to be made of the statements contained therein, and in case no facts appear within such period or by such examination tending to discredit or contradict any material statement of such application, then and not otherwise the officer may direct such child to appear thereafter for physical examination before two physicians officially designated by the board of health, and in case such physicians shall certify in writing that they have separately examined such child and that in their opinion such child is at least fourteen years of age such officer shall accept such certificates as sufficient proof of the age of such child for the purposes of this section. In case the opinions of such physicians do not concur, the child shall be examined by a third physician and the concurring opinions shall be conclusive for the purpose of this section as to the age of such child.

Such officer shall require the evidence of age specified in subdivision (a) in preference to that specified in any subsequent subdivision and shall not accept the evidence of age permitted by any subsequent subdivision unless he shall receive and file in addition thereto an affidavit of the parent showing that no evidence of age specified in any preceding subdivision or subdivisions of this section can be produced. Such affidavit shall contain the age, place and date of birth, and present residence of such child, which affidavit must be taken before the officer issuing the employment certificate, who is hereby authorized and required to administer such oath and who shall not demand or receive a fee therefor. Such employment certificate shall not be issued until such child shall further have personally appeared before and been examined by the officer issuing the certificate, and until such officer shall, after making such examination, sign and file in his office a statement that the child can read and legibly write simple sentences in the English language and that in his opinion the child is fourteen years of age or upwards and has reached the normal development of a child of its age, and is in sound health and is physically able to perform the work which it intends to do. In doubtful cases such physical fitness shall be determined by a medical officer of the board or department of health. Every such employment certificate shall be signed in the presence of the officer issuing the same, by the child in whose name it is issued.

Compare § 71, *ante*, and notes. False statement in relation to the certificate or application therefor is specifically denounced as a misdemeanor by amendment to the Penal Law, § 1275, subd. 8.

§ 164. Contents of certificate.—Such certificate shall state the date and place of birth of the child, and describe the color of hair and eyes and the height and weight and any distinguishing facial marks of such child, and

that the papers required by the preceding section have been duly examined, approved and filed and that the child named in such certificate has appeared before the officer signing the certificate and been examined.

Identical with § 72, *ante*.

§ 165. School record, what to contain.—The school record required by this article shall be signed by the principal or chief executive officer of the school which such child has attended and shall be furnished on demand to a child entitled thereto or to the board, department or commissioner of health. It shall contain a statement certifying that the child has regularly attended the public schools or schools equivalent thereto or parochial schools for not less than one hundred and thirty days during the twelve months next preceding his fourteenth birthday, or during the twelve months next preceding his application for such school record, and is able to read and write simple sentences in the English language, has received during such period instruction in reading, spelling, writing, English grammar and geography and is familiar with the fundamental operations of arithmetic up to and including fractions. Such school record shall also give the date of birth and residence of the child as shown on the records of the school and the name of its parents or guardian or custodian.

Identical with § 73, *ante*. Compare § 630 of Education Law, *post*.

[Section 166 providing for summer vacation certificates was repealed by L. 1911, ch. 866.]

§ 167. Registry of children employed.—The owner, manager or agent of a mercantile or other establishment specified in section one hundred and sixty-one, employing children, shall keep or cause to be kept, in the office of such establishment, a register, in which shall be recorded the name, birthplace, age and place of residence of all children so employed under the age of sixteen years. Such register and the certificate filed in such office shall be produced for inspection, upon the demand of an officer of the board, department or commissioner of health of the town, village or city where such establishment is situated, or if such establishment is situated in a city of the first class upon the demand of the commissioner of labor. On termination of the employment of the child so registered and whose certificate is so filed, such certificate shall be forthwith surrendered by the employer to the child or its parent or guardian or custodian. An officer of the board, department or commissioner of health of the town, village or city where a mercantile or other establishment mentioned in this article is situated, or if such establishment is situated in a city of the first class the commissioner of labor, may make demand on an employer in whose establishment a child apparently under the age of sixteen years is employed or permitted or suffered to work, and whose employment certificate is not then filed as required by this chapter, that such employer shall either furnish him, within ten days, evidence satisfactory to him that such child is in fact over sixteen years of age, or shall cease to employ or permit or suffer such child to work in such establishment. The officer may require from such employer the same evidence of age of such child as is required on the issuance of an employment certificate; and the employer furnishing such evidence shall not be required to furnish any further evidence of the age of the child. A notice embodying such demand may be served on such employer personally or may be sent

by mail addressed to him at said establishment, and if served by post shall be deemed to have been served at the time when the letter containing the same would be delivered in the ordinary course of the post. When the employer is a corporation such notice may be served either personally upon an officer of such corporation, or by sending it by post addressed to the office or the principal place of business of such corporation. The papers constituting such evidence of age furnished by the employer in response to such demand shall, except in cities of the first class, be filed with the board, department or commissioner of health, and in cities of the first class with the commissioner of labor, and a material false statement made in any such paper or affidavit by any person shall be a misdemeanor. In case such employer shall fail to produce and deliver to the officer of the board, department or commissioner of health, or in cities of the first class to the commissioner of labor, within ten days after such demand such evidence of age herein required by him, and shall thereafter continue to employ such child or permit or suffer such child to work in such mercantile or other establishment, proof of the giving of such notice and of such failure to produce and file such evidence shall be prima facie evidence in any prosecution brought for a violation of this article that such child is under sixteen years of age and is unlawfully employed.

Cf. § 76, ante.

§ 168. Wash-rooms and water-closets.—Suitable and proper wash-rooms and water-closets shall be provided in, adjacent to or connected with mercantile establishments. Such rooms and closets shall be so located and arranged as to be easily accessible to the employees of such establishments.

Such water-closets shall be properly screened and ventilated, and at all times, kept in a clean condition. The water-closets assigned to the female employees of such establishments shall be separate from those assigned to the male employees.

If a mercantile establishment has not provided wash-rooms and water-closets, as required by this section, the board or department of health or health commissioners of the town, village or city where such establishment is situated, unless such establishment is situated in a city of the first class, in which case the commissioner of labor shall cause to be served upon the owner, agent or lessee of the building occupied by such establishment a written notice of the omission and directing such owner, agent or lessee to comply with the provisions of this section respecting such wash-rooms and water closets.

Such owner shall, within fifteen days after the receipt of such notice, cause such wash-rooms and water-closets to be provided. [*As am'd by L. 1911, ch. 866.*]

Cf. § 88, ante.

§ 169. Lunch-rooms.—If a lunch-room is provided in a mercantile establishment where females are employed, such lunch-room shall not be next to or adjoining the water-closets, unless permission is first obtained from the board or department of health or health commissioners of the town, village or city where such mercantile establishment is situated, unless such establishment is situated in a city of the first class in which case such permission must be obtained from the commissioner of labor. Such permission shall be granted unless it appears that proper sanitary conditions do not exist, and

it may be revoked at any time by the board or department of health or health commissioners, if it appears that such lunch-room is kept in a manner or in a part of a building injurious to the health of the employees, unless such establishment is situated in a city of the first class in which case said permission may be so revoked by the commissioner of labor.

§ 170. Seats for women in mercantile establishments.—Chairs, stools or other suitable seats shall be maintained in mercantile establishments for the use of female employees therein, to the number of at least one seat for every three females employed; and the use thereof by such employees shall be allowed at such times and to such extent as may be necessary for the preservation of their health. If the duties of the female employees, for the use of whom the seats are furnished, are to be principally performed in front of a counter, table, desk or fixture, such seats shall be placed in front thereof; if such duties are to be principally performed behind such counter, table, desk or fixture, such seats shall be placed behind the same.

Cf. § 17, ante.

§ 171. Employment of women and children in basements.—Women or children shall not be employed or permitted to work in the basement of a mercantile establishment, unless permitted by the board or department of health, or health commissioner of the town, village or city where such mercantile establishment is situated, unless such establishment is situated in a city of the first class in which case such permission must be obtained from the commissioner of labor. Such permission shall be granted unless it appears that such basement is not sufficiently lighted and ventilated, and is not in good sanitary condition.

§ 172. Enforcement of article.—Except in cities of the first class the board or department of health or health commissioners of a town, village or city affected by this article shall enforce the same and prosecute all violations thereof. Proceedings to prosecute such violations must be begun within sixty days after the alleged offense was committed. All officers and members of such boards, or department, all health commissioners, inspectors and other persons appointed or designated by such boards, departments or commissioners may visit and inspect, at reasonable hours and when practicable and necessary, all mercantile or other establishments herein specified within the town, village or city for which they are appointed. No person shall interfere with or prevent any such officer from making such visitations and inspections, nor shall he be obstructed or injured by force or otherwise while in the performance of his duties. All persons connected with any such mercantile or other establishment herein specified shall properly answer all questions asked by such officer or inspector in reference to any of the provisions of this article. In cities of the first class the commissioner of labor shall enforce the provisions of this article, and for that purpose he and his subordinates shall possess all powers herein conferred upon town, village, or city boards and departments of health and their commissioners, inspectors, and other officers, except that the board or department of health of said cities of the first class shall continue to issue employment certificates as provided in section one hundred and sixty-three of this chapter.

§ 173. Copy of article to be posted.—A copy of this article shall be posted in a conspicuous place on every floor in each establishment wherein three or more persons are employed who are affected by its provisions.

ARTICLE 12.

Bureau of Mercantile Inspection.

Section 180. Mercantile inspectors.*

181. Deputies.

182. General powers and duties.

183. Reports.

184. Laws to be posted.

§ 180. **Mercantile inspector.**—There shall be a bureau of mercantile inspection, which shall be under the immediate charge of a mercantile inspector, but subject to the direction and supervision of the commissioner of labor. The mercantile inspector shall be appointed and be at pleasure removed by the commissioner of labor, and shall receive such annual salary not to exceed three thousand dollars as may be appropriated therefor. [*As am'd by L. 1910, ch. 516.*]

Cf. § 42, ante.

§ 181. **Deputies.**—The commissioner of labor may appoint from time to time not more than ten deputy mercantile inspectors, not less than two of whom shall be women, and who may be removed by him at any time. The deputy mercantile inspectors may be divided into three grades, but not more than two shall be of the third grade. Each deputy inspector of the first grade shall receive an annual salary of one thousand dollars, each of the second grade an annual salary of one thousand two hundred dollars, and each of the third grade an annual salary of one thousand five hundred dollars.

§ 182. **General powers and duties.**—1. The commissioner of labor may divide the cities of the first class of the state into districts, assign one or more deputy mercantile inspectors to each district, and may in his discretion transfer them from one district to another; he may assign any of them to inspect any special class or classes of mercantile or other establishments specified in article eleven of this chapter, situated in cities of the first class, or to enforce in cities of the first class any special provisions of such article.

2. The commissioner of labor may authorize any deputy commissioner or assistant and any special agent or inspector in the department of labor to act as a deputy mercantile inspector with the full power and authority thereof.

3. The commissioner of labor, the mercantile inspector and his assistant or assistants and every deputy or acting deputy mercantile inspector may in the discharge of his duties enter any place, building or room in cities of the first class where any labor is performed which is effected by the provisions of article eleven of this chapter, and may enter any mercantile or other establishment specified in said article, situated in cities of the first class, whenever he may have reasonable cause to believe that any such labor is performed therein.

4. The commissioner of labor shall visit and inspect or cause to be visited and inspected the mercantile and other establishments specified in article eleven of this chapter situated in cities of the first class, as often as practicable, and shall cause the provisions of said article to be enforced therein.

5. Any lawful municipal ordinance, by-law or regulation relating to mercantile and other establishments specified in article eleven of this chapter, in addition to the provisions of this chapter and not in conflict therewith, may be enforced by the commissioner of labor in cities of the first class.

* So in original.

§ 183. Reports.—The commissioner of labor shall make an annual report to the legislature of the operation of this bureau.

§ 184. Laws to be posted.—A copy or abstract of the applicable provisions of this chapter, to be prepared and furnished by the commissioner of labor, shall be kept posted by the employer in a conspicuous place on each floor of every mercantile or other establishment specified in article eleven of this chapter, situated in a city of the first class, wherein three or more persons are employed who are affected by such provisions.

ARTICLE 13.

Convict-made Goods and Duties of Commissioner of Labor Relative Thereto.

[Compare § 620 of the Penal Law, *post*. See also subject PRISON LABOR, *post*. As to constitutionality see *People v. Beattie*, 96 App. Div. 383; *People ex rel. Appel v. Zimmerman*, 102 App. Div. 103; *People v. Hawkins*, 157 N. Y. 1; and *People ex rel. Phillips v. Raynes*, 136 App. Div. 417, *aff'd* 198 N. Y. Mem. 59. Also Constitution, art. 3, § 29, under PRISON LABOR, *post*.]

Section 190. License for sale of convict-made goods.

191. Revocation of license.

192. Annual statement of licensee.

193. Labeling and marking convict-made goods.

194. Duties of commissioner of labor relative to violations; fines upon convictions.

195. Article not to apply to goods manufactured for use of state or a municipal corporation.

§ 190. License for sale of convict-made goods.—No person or corporation shall sell, or expose for sale, any convict-made goods, wares or merchandise, either by sample or otherwise, without a license therefor. Such license may be obtained upon application in writing to the comptroller, setting forth the residence or post-office address of the applicant, the class of goods desired to be dealt in, the town, village or city, with the street number, if any, at which the business of such applicant is to be located. Such application shall be accompanied with a bond, executed by two or more responsible citizens, or some legally incorporated surety company authorized to do business in this state, to be approved by the comptroller, in the sum of five thousand dollars, and conditioned that such applicant will comply with all the provisions of law relative to the sale of convict-made goods, wares and merchandise. Such license shall be for a term of one year unless sooner revoked. Such person or corporation shall pay, annually, on or before the fifteenth day of January, the sum of five hundred dollars as a license fee, into the treasury of the state, which amount shall be credited to the maintenance account of the state prisons.

Such license shall be kept conspicuously posted in the place of business of such licensee.

The requirement of a license as in this section is unconstitutional: *People ex rel. Phillips v. Rayner*, 136 App. Div. 417, *aff'd* 198 N. Y. Mem. 39.

Products of labor of prisoners in this state not to be sold: Const., art. III, § 29, *post*.

§ 191. Revocation of license.—The comptroller may revoke the license of any such person or corporation, upon satisfactory evidence of, or upon conviction for the violation of any statute regulating the sale of convict-made

goods, wares or merchandise; such revocation shall not be made until after due notice to the licensee so complained of. For the purpose of this section, the comptroller or any person duly appointed by him, may administer oaths and subpoena witnesses and take and hear testimony.

§ 192. **Annual statement of licensee.**—Each person or corporation so licensed shall, annually, on or before the fifteenth day of January, transmit to the secretary of state a verified statement setting forth:

1. The name of the person or corporation licensed.

2. The names of the persons, agents, wardens or keepers of any prison, jail, penitentiary, reformatory or establishment using convict labor, with whom he has done business, and the name and address of the person or corporation to whom he has sold goods, wares and merchandise, and

3. In general terms, the amount paid to each of such agents, wardens or keepers, for goods, wares or merchandise and the character thereof.

§ 193. **Labeling and marking convict-made goods.**—All goods, wares and merchandise made by convict labor in a penitentiary, prison, reformatory or other establishment in which convict labor is employed, shall be branded, labeled or marked as herein provided. The brand, label or mark, used for such purpose, shall contain at the head or top thereof, the words "convict-made," followed by the year when, and the name of the penitentiary, prison, reformatory or other establishment in which the article branded, labeled or marked was made.

Such brands, labels and marks shall be printed in plain English lettering, of the style and size known as great primer Roman condensed capitals. A brand or mark shall be used in all cases where the nature of the article will permit and only where such branding or marking is impossible shall a label be used. Such label shall be in the form of a paper tag and shall be attached by wire to each article, where the nature of the article will permit, and shall be placed securely upon the box, crate or other covering in which such goods, wares or merchandise are packed, shipped or exposed for sale.

Such brand, mark or label shall be placed upon the most conspicuous part of the finished article and its box, crate or covering.

No convict-made goods, wares or merchandise shall be sold or exposed for sale without such brand, mark or label.

The requirement of branding of goods from other states was held unconstitutional in 1898 in *People v. Hawkins*, 157 N. Y. 1.

§ 194. **Duties of commissioner of labor relative to violations; fines upon convictions.**—The commissioner of labor shall enforce the provisions of this article. If he has reason to believe that any of such provisions are being violated, he shall advise the district attorney of the county wherein such alleged violation has occurred of such fact, giving the information in support of his conclusion. The district attorney shall, at once, institute the proper proceedings to compel compliance with this article and secure conviction for such violations.

Upon the conviction of a person or corporation for a violation of this article, one-half of the fine recovered shall be paid and certified by the district attorney to the commissioner of labor, who shall use such money in investigating and securing information in regard to violations of this chapter, and in paying the expenses of such conviction.

Of. Penal Law, § 620, post.

§ 195. Article not to apply to goods manufactured for use of state or a municipal corporation.—Nothing in this article shall apply to or affect the manufacture in state prisons, reformatories and penitentiaries, and furnishing of articles for the use of the offices, departments and institutions of the state or any political division thereof, as provided by section one hundred fifty-eight, one hundred seventy to one hundred seventy-five, both inclusive, one hundred seventy-seven, one hundred seventy-eight, one hundred eighty-one, one hundred eighty-three, one hundred eighty-five, one hundred eighty-six, one hundred eighty-nine, and one hundred ninety-one of the prison law.

ARTICLE 14.

Employer's Liability.

[In the case of railway employees there should be read with this article section 64 of the Railroad Law given under DUTIES AND LIABILITIES OF EMPLOYERS AND EMPLOYEES, *post*.]

Section 200. Employer's liability for injuries.

- 201. Notice to be served.
- 202. Assumption of risks; contributory negligence, when a question of fact.
- 202-a. Trial; burden of proof.
- 203. Defense; insurance fund.
- 204. Existing rights of action continued.
- 205. Consent by employer and employee to compensation plan.
- 206. Liability to pay compensation; notice of accident.
- 207. Amount of compensation; persons entitled; physical examination.
- 208. Settlement of disputes.
- 209. Preferential claim; not assignable or subject to attachment; attorney's fee.
- 210. Cancellation of consent.
- 211. Reports of compensation plan.
- 212. Reports by employer.

§ 200. Employer's liability for injuries.—When personal injury is caused to an employee who is himself in the exercise of due care and diligence at the time:

1. By reason of any defect in the condition of the ways, works, machinery, or plant, connected with or used in the business of the employer which arose from or had not been discovered or remedied owing to the negligence of the employer or of any person in the service of the employer and intrusted by him with the duty of seeing that the ways, works, machinery, or plant, were in proper condition;

2. By reason of the negligence of any person in the service of the employer intrusted with any superintendence or by reason of the negligence of any person intrusted with authority to direct, control or command any employee in the performance of the duty of such employee. The employee, or in case the injury results in death, the executor or administrator of a deceased employee who has left him surviving a husband, wife or next of kin, shall have the same right of compensation and remedies against the employer as if the employee had not been an employee of nor in the service of the employer nor engaged in his work. The provisions of law relating to actions for causing death by negligence, so far as the same are consistent with this act, shall apply to an action brought by an executor

or administrator of a deceased employee, suing under the provisions of this article. If an employer enters into a contract, written or verbal, with an independent contractor to do part of such employer's work, or if such contractor enters into a contract with a subcontractor to do all or any part of the work comprised in such contractor's contract with the employer, such contract or subcontract shall not bar the liability of the employer for the injuries to the employees of such contractor or subcontractor, caused by any defect in the condition of the ways, works, machinery, or plant, if they are the property of the employer or are furnished by him, and if such defect arose, or had not been discovered or remedied, through the negligence of the employer, or of some person intrusted by him with the duty of seeing that they were in proper condition. [*As am'd by L. 1910, ch. 352.*]

§ 201. Notice to be served.—No action for recovery of compensation for injury or death under this article shall be maintained unless notice of the time, place and cause of the injury is given to the employer within one hundred and twenty days and the action is commenced within one year after the occurrence of the accident causing the injury or death. The notice required by this section shall be in writing and signed by the person injured or by some one in his behalf, but if from physical or mental incapacity it is impossible for the person injured to give notice within the time provided in this section, he may give the same within ten days after such incapacity is removed. In case of his death without having given such notice, his executor or administrator may give such notice within sixty days after his appointment, but no notice under the provisions of this section shall be deemed to be invalid or insufficient solely by reason of any inaccuracy in stating the time, place or cause of the injury if it be shown that there was no intention to mislead and that the party entitled to notice was not in fact misled thereby. If such notice does not apprise the employer of the time, place or cause of injury, he may, within eight days after service thereof, serve upon the sender a written demand for a further notice, which demand must specify the particular in which the first notice is claimed to be defective, and a failure by the employer to make such demand as herein provided shall be a waiver of all defects that the notice may contain. After service of such demand as herein provided, the sender of such notice may at any time within eight days thereafter serve an amended notice which shall supersede such first notice and have the same effect as an original notice hereunder. The notice required by this section shall be served on the employer, or if there is more than one employer, upon one of such employers, and may be served by delivering the same to or at the residence or place of business of the person on whom it is to be served. The notice or demand may be served by post by letter addressed to the person on whom it is to be served, at his last known place of residence or place of business, and if served by post shall be deemed to have been served at the time when the letter containing the same would be delivered in the ordinary course of the post. When the employer is a corporation, notice shall be served by delivering the same or by sending it by post addressed to the office or principal place of business of such corporation. [*As am'd by L. 1910, ch. 352.*]

§ 202. Assumption of risks; contributory negligence, when a question of fact.—An employee by entering upon or continuing in the service of the

employer shall be presumed to have assented to the necessary risks of the occupation or employment and no others. The necessary risks of the occupation or employment shall, in all cases arising after this article takes effect, be considered as including those risks, and those only, inherent in the nature of the business which remain after the employer has exercised due care in providing for the safety of his employees, and has complied with the laws affecting or regulating such business or occupation for the greater safety of such employees. In an action brought to recover damages for personal injury or for death resulting therefrom received after this act takes effect, owing to any cause, including open and visible defects, for which the employer would be liable but for the hitherto available defense of assumption of risk by the employee, the fact that the employee continued in the service of the employer in the same place and course of employment after the discovery by such employee, or after he had been informed of the danger of personal injury therefrom shall not be, as matter of fact or as matter of law, an assumption of the risk of injury therefrom, but an employee, or his legal representative, shall not be entitled under this article to any right of compensation or remedy against the employer in any case where such employee knew of the defect or negligence which caused the injury and failed, within a reasonable time, to give, or cause to be given, information thereof to the employer, or to some person superior to himself in the service of the employer, or who had intrusted to him some superintendence, unless it shall appear on the trial that such defect or negligence was known to such employer, or superior person, prior to such injuries to the employee; or unless such defect could have been discovered by such employer by reasonable and proper care, tests or inspection. [*As am'd by L. 1910, ch. 352.*]

§ 202-a. **Trial; burden of proof.**—On the trial of any action brought by an employee or his personal representative to recover damages for negligence arising out of and in the course of such employment, contributory negligence of the injured employee shall be a defense to be so pleaded and proved by the defendant. [*Added by L. 1910, ch. 352.*]

§ 203. **Defense; insurance fund.**—An employer who shall have contributed to an insurance fund created and maintained for the mutual purpose of indemnifying an employee for personal injuries, for which compensation may be recovered under this article, or to any relief society or benefit fund created under the laws of this state, may prove in mitigation of damages recoverable by an employee under this article such proportion of the pecuniary benefit which has been received by such employee from such fund or society on account of such contribution of the employer, as the contribution of such employer to such fund or society bears to the whole contribution thereto.

Under the common law an agreement relieving the employer from liability is void. *Johnston v. Fargo*, as President of the American Express Company, 184 N. Y. 379 (1906), aff'g 98 App. Div. 436.

§ 204. **Existing rights of action continued.**—Every existing right of action for negligence or to recover damages for injuries resulting in death is continued and nothing in this article contained shall be construed as limiting any such right of action, nor shall the failure to give the notice provided for in section two hundred and one of this article be a bar to the maintenance of a suit upon any such existing right of action.

§ 205. **Consent by employer and employee to compensation plan.**—When and if any employer in this state and any of his employees shall consent to the compensation plan described in sections two hundred and six to two hundred and twelve, inclusive, of this article, hereinafter referred to as the plan, and shall signify their consent thereto in writing signed by each of them or their authorized agents, and acknowledged in the manner prescribed by law for taking the acknowledgment of a conveyance of real property, and such writing is filed with the county clerk of the county in which it is signed by the employee, then so long as such consent has not expired or been canceled as hereinafter provided, such employee, or in case injury to him results in death, his executor or administrator, shall have no other right of action against the employer for personal injury or death of any kind, under any statute or at common law, save under the plan so consented to, except where personal injury to the employee is caused in whole or in part by the failure of the employer to obey a valid order made by the commissioner of labor or other public authority authorized to require the employer to safeguard his employees, or where such injury is caused by the serious or willful misconduct of the employer. In such excepted cases thus described, no right of action which the employee has at common law or by any other statute shall be affected or lost by his consent to the plan, if such employee, or in case of death his executor or administrator, commences such action before accepting any benefit under such plan or giving any notice of injury as provided in section two hundred and six hereof. The commencing of any legal action whatsoever at common law or by any statute against the employer on account of such injury, except under the plan, shall bar the employee, and in the event of his death his executors, administrators, dependents and other beneficiaries, from all benefit under the plan. This section and sections two hundred and six to two hundred and twelve, inclusive, of this article shall not apply to a railroad corporation, foreign or domestic, doing business in this state, or a receiver thereof, or to any person employed by such corporation or receiver. [*Added by L. 1910, ch. 352.*]

§ 206. **Liability to pay compensation; notice of accident.**—If personal injury by accident arising out of and in the course of the employment is caused to the employee, the employer shall, subject as hereinafter mentioned, be liable to pay compensation under the plan at the rates set out in section two hundred and seven of this article: provided that the employer shall not be liable in respect of any injury which does not disable the employee for a period of at least two weeks from earning full wages at the work at which he was employed, and that the employer shall not be liable in respect of any injury to the employee which is caused by the serious and willful misconduct of that employee. No proceedings for recovery under the plan provided hereby shall be maintained unless notice of the accident has been given to the employer as soon as practicable after the happening thereof and before the employee has voluntarily left the employment in which he was injured and during such disability, and unless claim for compensation with respect to the accident has been made within six months from the occurrence of the accident, or in the case of death of the employee, or in the event of his physical or mental incapacity within six months after such death or removal of such physical or mental incapacity, or in the event that weekly

payments have been made under the plan, within six months after such payments have ceased; but no want of or defect or inaccuracy of a notice shall be a bar to the maintenance of proceedings under the plan unless the employer proves that he is prejudiced by such want, defect or inaccuracy. Notice of the accident shall apprise the employer of the claim for compensation under this plan and shall state the name and address of the employee injured, the date and place of the accident and in simple language the cause thereof. The notice may be served personally or by sending it by mail in a registered letter addressed to the employer at his last known residence or place of business. [Added by L. 1910, ch. 352.]

§ 207. **Amount of compensation; persons entitled; physical examination.**—The amount of compensation under the plan shall be: 1. In case death results from injury:

(a) If the employee leaves a widow or next of kin at the time of his death wholly dependent on his earnings, a sum equal to twelve hundred times the daily earnings of the employee at the rate at which he was being paid by the employer at the time of the accident, but not more in any event than three thousand dollars. Any weekly payments previously made under the plan shall be deducted in ascertaining such amount payable on death.

(b) If such widow or next of kin or any of them are in part only dependent upon his earnings, such sum not exceeding that provided in subdivision a as may be determined to be reasonable and proportionate to the injury to such dependents.

(c) If he leaves no widow, or next of kin so dependent in whole or in part, the reasonable expenses of his medical attendance and burial, not exceeding one hundred dollars. Whatever sum may be determined to be payable under the plan, in case of death of the injured employee, shall be paid to his legal representative for the benefit of such dependents, or if he leaves no such dependents, for the benefit of the person to whom the expenses of medical attendance and burial are due.

2. Where total or partial incapacity for work at any gainful employment results to the employee from the injury, a weekly payment commencing at the end of the second week after the injury and continuing during incapacity, subject as herein provided, not exceeding fifty per centum of his average weekly earnings when at work on full time during the preceding year during which he shall have been in the employment of the same employer, or if he shall have been employed less than a year, then a weekly payment of not exceeding three times the average daily earnings on full time for such less period.

In fixing the amount of the weekly payment, regard shall be had to any payment, allowance or benefit which the workman may have received from the employer during the period of his incapacity, and in the case of partial incapacity the weekly payment shall in no case exceed the difference between the amount of the average weekly earnings of the workman before the accident and the average amount which he is earning or is able to earn in some suitable employment or business after the accident but shall amount to one-half of such difference. In no event shall any weekly payment payable under the plan exceed ten dollars per week or extend over more than eight years from the date of the accident. Any person entitled to receive

weekly payments under the plan is required, if requested by the employer, to submit himself for examination by a duly qualified medical practitioner or surgeon provided and paid for by the employer, at a time and place reasonably convenient for the employee, within three weeks after the injury, and thereafter at intervals not oftener than once in six weeks. If the workman refuses so to submit or obstructs the same, his right to weekly payments shall be suspended until such examination shall have taken place, and no compensation shall be payable under the plan during such period. In case an injured employee shall be mentally incompetent at the time when any right or privilege accrues to him under the plan, a committee or guardian of the incompetent appointed pursuant to law may, on behalf of such incompetent, claim and exercise any such right or privilege with the same force and effect as if the employee himself had been competent and had claimed or exercised any such right or privilege; and no limitation of time herein provided for shall run so long as said incompetent employee has no committee or guardian. [Added by L. 1910, ch. 352.]

§ 208. Settlement of disputes.—Any question of law or fact arising in regard to the application of the plan in determining the compensation payable thereunder or otherwise shall be determined either by agreement or by arbitration as provided in the code of civil procedure, or by an action at law as herein provided. In case the employer shall be in default in any of his obligations to the employee under the plan, the injured employee or his committee or guardian, if such be appointed, or his executor or administrator, may then bring an action to recover compensation under the plan in any court having jurisdiction thereof as on a written contract. Such action shall be conducted in the same manner as an action at law for the recovery of damages for breach of a written contract, and shall for all purposes, including the determination of jurisdiction, be deemed such an action. The judgment in such action, in favor of the plaintiff, shall be for a lump sum equal to the amount of the payments then due and prospectively due under the plan. In such action by an executor or administrator the judgment may provide the proportions of the award or the costs to be distributed to or between the several dependents. If such determination is not made it shall be determined by the surrogate's court by which such executor or administrator is appointed, in accordance with the terms of this article on petition of any party on such notice as such court may direct. [Added by L. 1910, ch. 352.]

§ 209. Preferential claim; not assignable or subject to attachment; attorney's fee.—Any person entitled to weekly payments under the plan against any employer shall have the same preferential claim therefor against the assets of the employer as now allowed by law for a claim by such person against such employer for unpaid wages or personal services. Weekly payments due under the plan shall not be assignable or subject to attachment, levy or execution. No claim of an attorney for any contingent interest in any recovery under the plan for services in securing such recovery shall be an enforceable lien thereon, unless the amount of the same be approved in writing by a justice of the supreme court, or in case the same is tried in any court, before the justice presiding at such trial. [Added by L. 1910, ch. 352.]

§ 210. Cancellation of consent.—When a consent to the plan shall have been filed in the office of the county clerk as herein provided, it shall be binding upon both parties thereto as long as the relation of employer and employee exists between the parties, and expire at the end of such employment, but it may at any time be canceled on sixty days' notice in writing from either party to the other. Such notice of cancellation shall be effective only if served personally or sent by registered letter to the last known post-office address of the party to whom it is addressed, but no notice of cancellation shall be effective as to a claim for injury occurring previous thereto. [Added by L. 1910, ch. 352.]

§ 211. Reports of compensation plan.—Each employer who shall sign with any employee a consent to the plan shall, within thirty days thereafter, file with the commissioner of labor a statement thereof, signed by such employer, which shall show (a) the name of the employer and his post-office address, (b) the name of the employee and his last known post-office address, (c) the date of, and office where the original consent is filed, (d) the weekly wage of the employee at the time the consent is signed; unless such statement is duly filed, such consent of the employee shall not be a bar to any proceeding at law commenced by the employee against the employer. [Added by L. 1910, ch. 352.]

§ 212. Reports by employer.—Each employer of labor in this state who shall have entered into the plan with any employee shall, on or before the first day of January, nineteen hundred and eleven, and thereafter and at such times as may be required by the commissioner of labor, make a report to such commissioner of all amounts, if any, paid by him under such plan to injured employees, stating the name of such employees, and showing separately the amounts paid under agreement with the employees, and the amounts paid after proceedings at law, and the proceedings at law under the plan then pending. Such reports shall be verified by the employer or a duly authorized agent in the same manner as affidavits. [Added by L. 1910, ch. 352.]

ARTICLE 14-a.

Workmen's Compensation in Certain Dangerous Employments.

[Added by L. 1910, ch. 674. Held unconstitutional by the Court of Appeals in *Ives v. South Buffalo Ry. Co.*, 201 N. Y. 271 (1911).]

- Section 215. Application of article.
 216. Definitions.
 217. Basis of liability.
 218. Rights of action not affected.
 219. Notice of accident.
 219-a. Scale of compensation.
 219-b. Medical examinations.
 219-c. Incompetency of workman.
 219-d. Settlement of disputes.
 219-e. Preferences and exemptions.
 219-f. Attorneys' fees.
 219-g. Liability of principal contractors.

§ 215. Application of article.—This article shall apply only to workmen engaged in manual or mechanical labor in the following employments, each

of which is hereby determined to be especially dangerous, in which from the nature, conditions or means of prosecution of the work therein, extraordinary risks to the life and limb of workmen engaged therein are inherent, necessary or substantially unavoidable, and as to each of which employments it is deemed necessary to establish a new system of compensation for accidents to workmen.

1. The erection or demolition of any bridge or building in which there is, or in which the plans and specifications require, iron or steel frame work.

2. The operation of elevators, elevating machines or derricks or hoisting apparatus used within or on the outside of any bridge or building for the conveying of materials in connection with the erection or demolition of such bridge or building.

3. Work on scaffolds of any kind elevated twenty feet or more above the ground, water, or floor beneath in the erection, construction, painting, alteration or repair of buildings, bridges or structures.

4. Construction, operation, alteration or repair of wires, cables, switchboards or apparatus charged with electric currents.

5. All work necessitating dangerous proximity to gunpowder, blasting powder, dynamite or any other explosives, where the same are used as instrumentalities of the industry.

6. The operation on steam railroads of locomotives, engines, trains, motors or cars propelled by gravity or steam, electricity or other mechanical power, or the construction or repair of steam railroad tracks and road beds over which such locomotives, engines, trains, motors or cars are operated.

7. The construction of tunnels and subways.

8. All work carried on under compressed air.

§ 216. Definitions.—The words, “employer,” “workman” and “employment,” or their plurals, used in this article, shall be construed to apply to all the employments above described.

§ 217. Basis of liability.—If, in the course of any of the employments above described, personal injury by accident arising out of and in the course of the employment after this article takes effect is caused to any workman employed therein, in whole or in part, or the damage or injury caused thereby is in whole or part contributed to by

a. A necessary risk or danger of the employment or one inherent in the nature thereof; or

b. Failure of the employer of such workman or any of his or its officers, agents or employees to exercise due care, or to comply with any law affecting such employment; then such employer shall, subject as hereinafter mentioned, be liable to pay compensation at the rates set out in section two hundred and nineteen-a of this title; provided that the employer shall not be liable in respect of any injury which does not disable the workman for a period of at least two weeks from earning full wages at the work at which he was employed, and provided that the employer shall not be liable in respect of any injury to the workman which is caused in whole or in part by the serious and willful misconduct of the workman.

§ 218. Rights of action not affected.—The right of action for damages caused by any such injury, at common law or under any statute in force on January one, nineteen hundred and ten, shall not be affected by this article,



and every existing right of action for negligence or to recover damages for injuries resulting in death is continued, and nothing in this article shall be construed as limiting such right of action, but in case the injured workman, or in event of his death his executor or administrator, shall avail himself of this article, either by accepting any compensation hereunder in accordance with section two hundred and nineteen-a hereof or by beginning proceedings therefor in any manner on account of any such injury, he shall be barred from recovery in and deemed thereby to have released every other action at common law or under any other statute on account of the same injury after this article takes effect. In case after such injury the workman, or in the event of his death his executor or administrator, shall commence any action at common law or under any statute other than this article against the employer therefor he shall be barred from all benefit of this article in regard thereto.

§ 219. Notice of accident.—No proceedings for compensation under this article shall be maintained unless notice of the accident as hereinafter provided has been given to the employer as soon as practicable after the happening thereof and before the workman has voluntarily left the employment in which he was injured, and during such disability, but no want or defect or inaccuracy of a notice shall be a bar to the maintenance of proceedings unless the employer proves that he is prejudiced by such want, defect or inaccuracy. Notice of the accident shall state the name and address of the workman injured, the date and place of the accident, and in simple language the physical cause thereof, if known. The notice may be served personally or by sending it by mail in a registered letter addressed to the employer at his last known residence or place of business.

§ 219-a. Scale of compensation.—The amount of compensation shall be in case death results from injury:

a. If the workman leaves a widow or next of kin at the time of his death wholly dependent on his earnings, a sum equal to twelve hundred times the daily earnings of such workman at the rate at which he was being paid by such employer at the time of the injury subject as hereinafter provided, and in no event more than three thousand dollars. Any weekly payments made under this article shall be deducted in ascertaining such amount.

b. If such widow or next of kin at the time of his death are in part only dependent upon his earnings, such proportionate sum not exceeding that provided in subdivision a as may be determined according to the injury to such dependents.

c. If he leaves no dependents, the reasonable expenses of his medical attendance and burial, not exceeding one hundred dollars.

Whatever sum may be determined to be payable under this article in case of death of the injured workman shall be paid to his legal representative for the benefit of such dependents, or if he leaves no such dependents, for the benefit of the persons to whom the expenses of medical attendance and burial are due.

2. Where total or partial incapacity for work at any gainful employment results to the workman from the injury, a weekly payment commencing at the end of the second week after the injury and continuing during such in-

capacity, subject as herein provided, equal to fifty per centum of his average weekly earnings when at work on full time during the preceding year during which he shall have been in the employment of the same employer, or if he shall have been in the employment of the same employer for less than a year, then a weekly payment of not exceeding three times the average daily earnings on full time for such less period. In fixing the amount of the weekly payment, regard shall be had to the difference between the amount of the average earnings of the workman before the accident and the average amount he is able to earn thereafter as wages in the same employment or otherwise. In fixing the amount of the weekly payment, regard shall be had to any payment, allowance or benefit which the workman may have received from the employer during the period of his incapacity, and in the case of partial incapacity the weekly payment shall in no case exceed the difference between the amount of the average weekly earnings of the workman before the accident and the average weekly amount which he is earning or is able to earn in the same employment or otherwise after the accident, but shall amount to one-half of such difference. In no event shall any compensation paid under this article exceed the damage suffered, nor shall any weekly payment payable under this article in any event exceed ten dollars a week or extend over more than eight years from the date of the accident.

§ 219-b. Medical examinations.—Any workman entitled to receive weekly payments under this article is required, if requested by the employer, to submit himself for examination by a duly qualified medical practitioner or surgeon provided and paid for by the employer, at a time and place reasonably convenient for the workman, within three weeks after the injury, and thereafter at intervals not oftener than once in six weeks. If the workman refuses to submit to such examination, or obstructs the same, his right to weekly payments shall be suspended until such examination has taken place, and no compensation shall be payable during or for account of such period.

§ 219-c. Incompetency of workman.—In case an injured workman shall be mentally incompetent at the time when any right or privilege accrues to him under this article, a committee or guardian of the incompetent appointed pursuant to the law may, on behalf of such incompetent, claim and exercise any such right or privilege with the same force and effect as if the workman himself had been competent and had claimed or exercised any such right or privilege; and no limitation of time in this article provided for shall run so long as said incompetent workman has no committee or guardian.

§ 219-d. Settlement of disputes.—Any question which may arise under this act shall be determined either by agreement or by arbitration as provided in the code of civil procedure or by an action at law as herein provided. In case the employer fail to make compensation as herein provided, the injured workman, or his committee or guardian, if such be appointed, or his executor or administrator, may then bring an action to recover compensation under this article in any court having jurisdiction thereof, or in any court which would have had jurisdiction of an action for recovery of damages for negligence for the same injury between the same parties. This article however shall not be construed as extending the jurisdiction of any such court to award judgment for an amount greater than now allowed by law. Such

action shall be conducted in the same manner as actions at law for the recovery of damages for negligence. The judgment in such action if in favor of the plaintiff shall be for a sum equal to the amount of payments then due and prospectively due under this article. Such action must be commenced within six months after the happening of the accident or in case of the death of the workman by such accident within six months after the appointment of his legal representative in this state, or in the event of his physical incapacity, within six months after the removal thereof, or in the event of weekly payments by the employer hereunder, within six months after such payments have ceased. In such action by an executor or administrator the judgment may provide the proportions of the award or the costs to be distributed to or between the several dependents. If such determination is not made it shall be determined by the surrogate's court, in which such executor or administrator is appointed, in accordance with this article, on petition of any party interested on such notice as such court may direct.

§ 219-e. Preferences and exemptions.—Any person entitled to weekly payments under this article against any employer shall have the same preferential claim therefor against the assets of the employer as allowed by law for a claim by such person against such employer for unpaid wages or personal services. Weekly payments due under this article shall not be assignable or subject to levy, execution or attachment.

§ 219-f. Attorneys' liens.—No claim of an attorney-at-law for any contingent interest in any recovery under this article for services in securing such recovery or for disbursements shall be an enforceable lien on such recovery, unless the amount of the same be approved in writing by a justice of the supreme court, or in case the same be tried in any court, by the justice presiding at such trial.

§ 219-g. Liability of principal contractors.—If an employer who shall be the principal enters into a contract with an independent contractor to do part of such employer's work, or if such contractor enters into a contract with a subcontractor to do all or any part of the work comprised in such contractor's contract with the employer, the said principal shall be liable to pay to any workman employed in the execution of the work any compensation under this article which he would have been liable to pay if that workman had been immediately employed by him; and where compensation is claimed from or proceedings are taken against the principal then, in the application of this article, references to the principal shall be substituted for references to the employer, except that the amount of compensation shall be calculated with reference to the earnings of the workman under the contractor or employer by whom he is immediately employed. Where such principal is liable to pay compensation he shall be entitled to be indemnified by any person who would have been liable to pay compensation to the workman independently of this section. Nothing in this section shall be construed as preventing a workman from recovering compensation under this article from the contractor or subcontractor, instead of the principal; nor shall this section apply in any case where the accident shall occur elsewhere than on, or in, or about the premises on which the principal has undertaken to execute the work or which are otherwise under his control or management.

ARTICLE 15.**Employment of Children in Street Trades.**

Section 220. Prohibited employment of children in street trades.

221. Permit and badge for newsboys, how issued.

222. Contents of permit and badge.

223. Regulations concerning badge and permit.

224. Limit of hours.

225. Enforcement of article.

226. Violation of this article, how punished.

§ 220. Prohibited employment of children in street trades.—No male child under ten, and no girl under sixteen years of age, shall in any city of the first or second class sell or expose or offer for sale newspapers, magazines or periodicals in any street or public place.

§ 221. Permit and badge for newsboys, how issued.—No male child under fourteen years of age shall sell or expose or offer for sale said articles unless a permit and badge as hereinafter provided shall have been issued to him by the district superintendent of the board of education of the city and school district where said child resides, or by such other officer thereof as may be officially designated by such board for that purpose, on the application of the parent, guardian or other person having the custody of the child desiring such permit and badge, or in case said child has no parent, guardian or custodian then on the application of his next friend, being an adult. Such permit and badge shall not be issued until the officer issuing the same shall have received, examined, approved and placed on file in his office satisfactory proof that such male child is of the age of ten years or upwards, and shall also have received, examined and placed on file the written statement of the principal or chief executive officer of the school which the child is attending, stating that such child is an attendant at such school, that he is of the normal development of a child of his age and physically fit for such employment, and that said principal or chief executive officer approves the granting of a permit and badge to such child. No such permit or badge shall be valid for any purpose except during the period in which such proof and written statement shall remain on file, nor shall such permit or badge be authority beyond the period fixed therein for its duration. After having received, examined and placed on file such papers the officer shall issue to the child a permit and badge. Principals or chief executive officers of schools in which children under fourteen years are pupils shall keep complete lists of all children in their schools to whom a permit and badge as herein provided have been granted.

§ 222. Contents of permit and badge.—Such permit shall state the date and place of birth of the child, the name and address of its parent, guardian, custodian or next friend, as the case may be, and describe the color of hair and eyes, the height and weight and any distinguishing facial mark of such child, and shall further state that the papers required by the preceding section have been duly examined and filed; and that the child named in such permit has appeared before the officer issuing the permit. The badge furnished by the officer issuing the permit shall bear on its face a number corresponding to the number of the permit, and the name of the child. Every such permit, and every such badge on its reverse side, shall be signed in the

presence of the officer issuing the same by the child in whose name it is issued.

§ 223. **Regulations concerning badge and permit.**—The badge provided for herein shall be worn conspicuously at all times by such child while so working; and all such permits and badges shall expire annually on the first day of January. The color of the badge shall be changed each year. No child to whom such permit and badge are issued shall transfer the same to any other person nor be engaged in any city of the first or second class as a newsboy, or shall sell or expose or offer for sale newspapers, magazines or periodicals in any street or public place without having conspicuously upon his person such badge, and he shall exhibit the same upon demand at any time to any police, or attendance officer.

§ 224. **Limit of hours.**—No child to whom a permit and badge are issued as provided for in the preceding sections shall sell or expose or offer for sale any newspapers, magazines or periodicals after ten o'clock in the evening, or before six o'clock in the morning.

§ 225. **Enforcement of article.**—In cities of the first or second class, police officers, and the regular attendance officers appointed by the board of education, who are hereby vested with the powers of peace officers for the purpose, shall enforce the provisions of this article.

§ 226. **Violation of this article, how punished.**—Any child who shall work in any city of the first or second class in any street or public place as a newsboy or who shall sell or expose or offer for sale newspapers, magazines or periodicals in violation of the provisions of this article, shall be arrested and brought before a court or magistrate having jurisdiction to commit a child to an incorporated charitable reformatory or other institution and be dealt with according to law; and if any such child is committed to an institution, it shall when practicable, be committed to an institution governed by persons of the same religious faith as the parents of such child. The permit and badge of any child who violates the provisions of this article may be revoked by the officer issuing the same, upon the recommendation of the principal or chief executive officer of the school which such child is attending, or upon the complaint of any police officer or attendance officer, and such child shall surrender the permit and badge so revoked upon the demand of any attendance officer or police officer charged with the duty of enforcing the provisions of this article. The refusal of any child to surrender such permit and badge, upon such demand, or the sale or offering for sale of newspapers, magazines or periodicals in any street or public place by any child after notice of the revocation of such permit and badge shall be deemed a violation of this article and shall subject the child to the penalties provided for in this section.

ARTICLE 16.

Laws Repealed; When to Take Effect.

Section 240. Laws repealed.

241. When to take effect.

§ 240. **Laws repealed.**—Of the laws enumerated in the schedule hereto annexed, that portion specified in the last column is hereby repealed.

§ 241. **When to take effect.**—This chapter shall take effect immediately.*

SCHEDULE OF LAWS REPEALED.

Laws of	Chapter	Section
1833.....	87.....	All
1853.....	641.....	All
1867.....	856.....	All
1867.....	969.....	All
1868.....	717.....	2, part suspending operation of L. 1867, Ch. 969, § 10, last two sentences
1869.....	822.....	2, part amending L. 1867, Ch. 969
1870.....	385.....	All
1871.....	934.....	3
1874.....	614.....	All
1875.....	472.....	All
1881.....	298.....	All
1883.....	356.....	All
1885.....	314.....	All
1885.....	376.....	All
1886.....	151.....	All
1886.....	205.....	All
1886.....	409.....	All, except § 21, as added b. L. 1887, Ch. 462, § 4
1886.....	410.....	All
1887.....	63.....	All
1887.....	323.....	All
1887.....	462.....	All
1887.....	529.....	All
1888.....	437.....	All
1889.....	380.....	All
1889.....	381.....	All
1889.....	385.....	All
1889.....	560.....	All
1890.....	218.....	All
1890.....	388.....	All
1890.....	394.....	All
1890.....	398.....	All
1891.....	214.....	All
1892.....	517.....	All
1892.....	667.....	All
1892.....	673.....	All
1892.....	711.....	All
1893.....	173.....	All
1893.....	219.....	All
1893.....	339.....	All
1893.....	691.....	All
1893.....	715.....	All
1893.....	717.....	All
1894.....	277.....	All
1894.....	373.....	All

Laws of	Chapter	Section
1894.....	622.....	All
1894.....	698.....	All
1894.....	699.....	All
1895.....	324.....	All
1895.....	413.....	All
1895.....	518.....	All
1895.....	670.....	All
1895.....	765.....	All
1895.....	791.....	All
1895.....	899.....	All
1896.....	271.....	All
1896.....	384.....	All
1896.....	672.....	All
1896.....	789.....	All
1896.....	931.....	1-4, 6, 7
1896.....	936.....	All
1896.....	982.....	All
1896.....	991.....	All
1897.....	148.....	All
1897.....	415.....	All
1899.....	191.....	All
1899.....	192.....	All
1899.....	375.....	All
1899.....	558.....	All
1899.....	567.....	All
1900.....	298.....	All
1900.....	533.....	All
1901.....	9.....	All
1901.....	306.....	All
1901.....	475.....	All
1901.....	477.....	All
1901.....	478.....	All
1902.....	88.....	All
1902.....	454.....	All
1902.....	600.....	All
1903.....	151.....	All
1903.....	184.....	All
1903.....	255.....	All
1903.....	561.....	All
1904.....	291.....	All
1904.....	523.....	All
1904.....	550.....	All
1905.....	493.....	All
1905.....	518.....	All
1905.....	519.....	All
1905.....	520.....	All
1906.....	129.....	All
1906.....	158.....	All

Laws of	Chapter	Section
1906.....	178.....	All
1906.....	216.....	All
1906.....	275.....	All
1906.....	316.....	All
1906.....	366.....	All
1906.....	375.....	All
1906.....	401.....	All
1906.....	490.....	All
1906.....	506.....	All
1907.....	83.....	All
1907.....	243.....	All
1907.....	286.....	All
1907.....	291.....	All
1907.....	399.....	All
1907.....	418.....	All
1907.....	485.....	All
1907.....	490.....	All
1907.....	505.....	All
1907.....	507.....	All
1907.....	588.....	All
1907.....	627.....	All
1908.....	89.....	All
1908.....	174.....	All
1908.....	426.....	All
1908.....	442.....	All
1908.....	443.....	All
1908.....	520.....	All

PENALTIES FOR VIOLATION OF THE LABOR LAW.

THE PENAL LAW, CHAPTER 40 OF THE CONSOLIDATED LAWS.

§ 620. Unlawful dealing in convict made goods.—A person who:

1. Sells or exposes for sale convict made goods, wares or merchandise, without a license therefor, or having such license does not transmit to the secretary of state the statement required by article thirteen of the labor law; or,

2. Sells, offers for sale, or has in his possession for sale any such convict made goods, wares or merchandise without the brand, mark or label required by article thirteen of the labor law; or,

3. Removes or defaces or in any way alters such brand, mark or label, Is guilty of a misdemeanor, and upon conviction therefor shall be punished by a fine of not more than one thousand or less than one hundred dollars, or by imprisonment for not less than ten days or by both such fine and imprisonment.

Cf. notes with §§ 190 and 193 of the Labor Law, ante.

ARTICLE 120.

Labor.

Section 1270. Refusal to admit inspector to mines, tunnels, and quarries; failure to comply with requirements of inspector.

1271. Hours of labor to be required.

1272. Payment of wages.

1273. Failure to furnish seats for female employees.

1274. No fees to be charged for services rendered by free public employment bureaus.

1275. Violations of provisions of labor law.

1276. Negligently furnishing insecure scaffolding.

1277. Neglect to complete or plank floors of buildings constructed in cities.

1278. Fraudulent representation in labor organizations.

§ 1270. Refusal to admit inspector to mines, tunnels, and quarries; failure to comply with requirements of inspector.—A person:

1. Refusing to admit the commissioner of labor, or any person authorized by him, to a mine, tunnel or quarry, and to each and every part thereof, for the purpose of examination and inspection; or,

2. Neglecting or refusing to comply with the provisions of article nine of the labor law, upon written notice of the commissioner of labor, .

Is guilty of a misdemeanor, and upon conviction therefor shall be punished by a fine of not less than fifty dollars, or by imprisonment for not less than thirty days.

§ 1271. Hours of labor to be required.—Any person or corporation:

1. Who, contracting with the state or municipal corporation, shall require more than eight hours' work for a day's labor; or,

2. Who shall require more than ten hours' labor, including one-half hour for dinner, to be performed within twelve consecutive hours, by the employees of a street surface and elevated railway owned or operated by corporations

whose main line of travel or routes lie principally within the corporate limits of cities of more than one hundred thousand inhabitants; or,

3. Who shall require the employees of a corporation owning or operating a brickyard to work contrary to the requirements of section five of the labor law; or,

4. Who shall require or permit any employee engaged in or connected with the movement of any train of a corporation operating a line of railroad of thirty miles in length, or over, in whole or in part within this state, to remain on duty more than sixteen consecutive hours; or to require or permit any such employee who has been on duty sixteen consecutive hours to go on duty without having had at least ten hours off duty; or to require or permit any such employee who has been on duty sixteen hours in the aggregate in any twenty-four hour period, to continue on duty or to go on duty without having had at least eight hours off duty within such twenty-four hour period; except when by casualty occurring after such employee has started on his trip, or by unknown casualty occurring before he started on his trip, and except when by accident or unexpected delay of trains scheduled to make connection with the train on which such employee is serving, he is prevented from reaching his terminal;

Is guilty of a misdemeanor, and on conviction therefor shall be punished by a fine of not less than five hundred nor more than one thousand dollars for each offense.

If any contractor with the state or a municipal corporation shall require more than eight hours for a day's labor, upon conviction therefor in addition to such fine, the contract shall be forfeited at the option of the municipal corporation.

See §§ 3-8 of the Labor Law, *ante*.

§ 1272. Payment of wages.—A corporation or joint stock association or person carrying on the business thereof, by lease or otherwise, who does not pay the wages of all its employees in accordance with the provisions of the labor law, is guilty of a misdemeanor, and upon conviction therefor, shall be fined not less than one hundred nor more than ten thousand dollars for each offense. An indictment of a person or corporation operating a steam surface railroad for an offense specified in this section may be found and tried in any county within the state in which such railroad ran at the time of such offense. [*As am'd by L. 1909, ch. 205.*]

See §§ 9 and 10 of the Labor Law, *ante*.

§ 1273. Failure to furnish seats for female employees.—Any person employing females in a factory or mercantile establishment who does not provide and maintain suitable seats for the use of such employees and permit the use thereof by such employees to such an extent as may be reasonable for the preservation of their health, is guilty of a misdemeanor.

See §§ 17 and 170 of Labor Law, *ante*.

§ 1274. No fees to be charged for services rendered by free public employment bureaus.—A person connected with or employed in a free public employment bureau, who shall charge or receive directly or indirectly, any fee or compensation from any person applying to such bureau for help or employment, is guilty of a misdemeanor.

§ 1275. Violations of provisions of labor law.—Any person who violates or does not comply with:

1. The provisions of article three of the labor law, relating to the department of labor;
2. The provisions of article four of the labor law, relating to the bureau of labor statistics;
3. The provisions of article five of the labor law, relating to the bureau of factory inspection;
4. The provisions of article six of the labor law, relating to factories;
5. The provisions of article seven of the labor law, relating to the manufacture of articles in tenements;
6. The provisions of article eight of the labor law, relating to bakeries and confectionery establishments;
7. The provisions of article eleven of the labor law, relating to mercantile establishments, and the employment of women and children therein;
8. And any person who knowingly makes a false statement in or in relation to any application made for an employment certificate as to any matter required by articles six and eleven of the labor law to appear in any affidavit, record, transcript or certificate therein provided for,

is guilty of a misdemeanor and upon conviction shall be punished for a first offense by a fine of not less than twenty nor more than fifty dollars; for a second offense by a fine of not less than fifty nor more than two hundred and fifty dollars, or by imprisonment for not more than thirty days or by both such fine and imprisonment; for a third offense by a fine of not less than two hundred and fifty dollars, or by imprisonment for not more than sixty days, or by both such fine and imprisonment. [*As am'd by L. 1911, ch. 749.*]

§ 1276. Negligently furnishing insecure scaffolding.—A person or corporation employing or directing another to do or perform any labor in the erection, repairing, altering or painting, any house, building or structure within this state, who knowingly or negligently furnishes or erects or causes to be furnished or erected for the performance of such labor, unsafe, unsuitable or improper scaffolding, hoists, stays, ladders or other mechanical contrivances; or who hinders or obstructs any officer detailed to inspect the same, destroys or defaces any notice posted thereon, or permits the use thereof after the same has been declared unsafe by such officer contrary to the provisions of article two of the labor law, is guilty of a misdemeanor.

See §§ 18 and 19 of the Labor Law, *ante*.

§ 1277. Neglect to complete or plank floors of buildings constructed in cities.—A person, constructing a building in a city, as owner or contractor, who violates the provisions of article two of the labor law, relating to the completing or laying of floors, or the planking of such floors or tiers of beams as the work of construction progresses, is guilty of a misdemeanor, and upon conviction therefor shall be punished by a fine for each offense of not less than twenty-five nor more than two hundred dollars.

See § 20 of the Labor Law, *ante*.

§ 1278. Fraudulent representation in labor organizations.—[See under TRADE UNIONS, *post*.]

CHILD LABOR.

[The employment of children during the school sessions is regulated by Article 23 of the Education Law, printed below.

The employment of children in factories is regulated by Article 6 of the Labor Law, *ante*; in stores, hotels, offices, etc., by Article 11, *ante*, and in the selling of newspapers by Article 15, *ante*.

Article 44 of the Penal Law (§§ 480-493), entitled "Children," contains provisions relative to the employment of children in occupations dangerous to health or morals. Certain of these sections are printed below. See further § 1892 of the Penal Law prohibiting the employment of minors under 18 as telegraph operators on railroads; and the Liquor Tax Law, § 30-f, forbidding girls to sell or serve liquors.

As to registration of births, from which evidence of a child's attainment of the legal age of employment is derived, see Public Health Law, § 22.]

EDUCATIONAL RESTRICTIONS.

COMPULSORY EDUCATION LAW: ARTICLE 23 OF CHAPTER 16 OF THE CONSOLIDATED LAWS.

[Enacted by ch. 140 of Laws of 1910, amending ch. 16 of the Consolidated Laws of 1909.]

§ 620. Instruction required. The instruction required under this article shall be:

1. At a public school in which at least the six common school branches of reading, spelling, writing, arithmetic, English language and geography are taught in English.

2. Elsewhere than a public school upon instruction in the same subjects taught in English by a competent teacher.

§ 621. Required attendance upon instruction.—1. Every child within the compulsory school ages, in proper physical and mental condition to attend school, residing in a city or school district having a population of 5000 or more and employing a superintendent of schools, shall regularly attend upon instruction as follows:

(a) Each child between 7 and 14 years of age shall attend the entire time during which the school attended is in session, which period shall not be less than 160 days of actual school.

(b) Each child between 14 and 16 years of age not regularly and lawfully engaged in any useful employment or service, and to whom an employment certificate has not been duly issued under the provisions of the labor law, shall so attend the entire time during which the school attended is in session.

2. Every such child, residing elsewhere than in a city or school district having a population of 5000 or more and employing a superintendent of schools, shall attend upon instruction as many days annually between the first day of October and the following June as the public school of the district in which such child resides, shall be in session during such period, as follows:

(a) Each child between 8 and 14 years of age.

(b) Each child between 14 and 16 years of age not regularly and lawfully engaged in any useful employment or service.

§ 622. When a boy is required to attend evening school.—Every boy between 14 and 16 years of age, in a city of the first class or a city of the second class in possession of an employment certificate duly issued under the provisions of the labor law, who has not completed such course of study as is required for graduation from the elementary public schools of such city, and who does not hold either a certificate of graduation from the public elementary school or the preacademic certificate issued by the Regents or the certificate of the completion of an elementary course issued by the Education Department, shall attend the public evening schools of such city, or other evening schools offering an equivalent course of instruction, for not less than six hours each week, for a period of not less than 16 weeks or upon a trade school a period of eight hours per week for 16 weeks in each school or calendar year.

§ 623. Instruction elsewhere than at a public school.—If any such child shall so attend upon instruction elsewhere than at a public school, such instruction shall be at least substantially equivalent to the instruction given children of like age at the public school of the city or district in which such child resides; and such attendance shall be for at least as many hours each day thereof as are required of children of like age at public schools; and no greater total amount of holidays or vacations shall be deducted from such attendance during the period such attendance is required than is allowed in such public school to children of like age. Occasional absences from such attendance, not amounting to irregular attendance in the fair meaning of the term, shall be allowed upon such excuses only as would be allowed in like cases by the general rules and practice of such public school.

§ 624. Duties of persons in parental relation to children.—Every person in parental relation to a child within the compulsory school ages and in proper physical and mental condition to attend school, shall cause such child to attend upon instruction, as follows:

1. In cities and school districts having a population of 5000 or above, every child between 7 and 16 years of age as required by section 621 of this act unless an employment certificate shall have been duly issued to such child under the provisions of the labor law and he is regularly employed thereunder.

2. Elsewhere than in a city or school district having a population of 5000 or above, every child between 8 and 16 years of age, unless such child shall have received an employment certificate duly issued under the provisions of the labor law and is regularly employed thereunder in a factory or mercantile establishment, business or telegraph office, restaurant, hotel, apartment house or in the distribution or transmission of merchandise or messages, or unless such child shall have received the school record certificate issued under section 630 of this act and is regularly employed elsewhere than in the factory or mercantile establishment, business or telegraph office, restaurant, hotel, apartment house or in the distribution or transmission of merchandise or messages.

§ 625. Penalty for failure to perform parental duty.—A violation of section 624 shall be a misdemeanor, punishable for the first offense by a fine not exceeding \$5, or five days' imprisonment, and for each subsequent offense by a fine not exceeding \$50, or by imprisonment not exceeding 30 days,

or by both such fine and imprisonment. Courts of special session and police magistrates shall, subject to removal as provided in sections 57 and 58 of the Code of Criminal Procedure, have exclusive jurisdiction in the first instance to hear, try and determine charges of violations of this section within their respective jurisdictions.

§ 626. Unlawful employment of children and penalty therefor.—It shall be unlawful for any person, firm or corporation:

1. To *employ any child under fourteen years of age, in any business or service whatever, for any part of the term during which the public schools of the district or city in which the child resides are in session.

2. To employ, elsewhere than in a city of the first class or a city of the second class, in a factory or mercantile establishment, business or telegraph office, restaurant, hotel, apartment house or in the distribution or transmission of merchandise or messages, any child between 14 and 16 years of age who does not at the time of such employment present an employment certificate duly issued under the provisions of the labor law, or to employ any such child in any other capacity who does not at the time of such employment present a school record certificate as provided in section 630 of this chapter.

3. To employ any child between 14 and 16 years of age in a city of the first class or a city of the second class who does not, at the time of such employment, present an employment certificate, duly issued under the provisions of the labor law.

§ 627. Employer must display record certificate and evening certificate.—The employer of any child between 14 and 16 years of age in a city of the first class or a city of the second class shall keep and shall display in the place where such child is employed, the employment certificate and also his evening school certificate issued by the school authorities of said city or by an authorized representative of such school authorities, certifying that the said boy is regularly in attendance at an evening school of said city as provided in section 631 of this chapter.

§ 628. Punishment for unlawful employment of children.—Any person, firm, or corporation, or any officer, manager, superintendent or employee acting therefor, who shall employ any child contrary to the provisions of section 626 hereof, shall be guilty of a misdemeanor, and the punishment therefor shall be for the first offense a fine of not less than \$20 nor more than \$50; for a second, and each subsequent offense, a fine of not less than \$50 nor more than \$200.

Constitutionality affirmed in *City of New York v. Chelsea Jute Mills*, 43 Misc. 266.

§ 629. Teachers must keep record of attendance.—An accurate record of the attendance of all children between 7 and 16 years of age shall be kept by the teacher of every school, showing each day by the year, month, day of the month and day of the week, such attendance, and the number of hours in each day thereof; and each teacher upon whose instruction any such child shall attend elsewhere than at school, shall keep a like record of such attendance. Such record shall, at all times, be open to the attendance officers or other person duly authorized by the school authorities of the city or

* So in original.

district, who may inspect or copy the same; and every such teacher shall fully answer all inquiries lawfully made by such authorities, inspectors, or other persons, and a wilful neglect or refusal so to answer any such inquiry shall be a misdemeanor.

§ 630. **School record certificate.**—1. A school record certificate shall contain a statement certifying that a child has regularly attended the public schools, or schools equivalent thereto, or parochial schools, for not less than 130 days during the 12 months next preceding his 14th birthday or during the 12 months next preceding his application for such school record, and that he is able to read and write simple sentences in the English language, and has received during such period instruction in reading, writing, spelling, English grammar and geography, and is familiar with the fundamental operations of arithmetic up to and including fractions. Such record shall also give the date of birth and residence of the child as shown on the school records, and the name of the child's parents, guardian or custodian.

2. A teacher or superintendent to whom application shall be made for a school record certificate required under the provisions of the labor law shall issue a school record certificate to any child who, after due investigation and examination, may be found to be entitled to the same as follows:

- a. In a city of the first class by the principal or chief executive of a school.
- b. In all other cities and in school districts having a population of 5000 or more and employing a superintendent of schools, by the superintendent of schools only.
- c. In all other school districts by the principal teacher of the school.
- d. In each city or school district such certificate shall be furnished on demand to a child entitled thereto or to the Board or Commissioner of Health.

§ 631. **Evening school certificate.**—The school authorities of a city of the first class or a city of the second class, or officers designated by them, are hereby required to issue to a boy lawfully in attendance at an evening school, an evening school certificate at least once in each month during the months said evening school is in session and at the close of the term of said evening school, provided that said boy has been in attendance upon said evening school for not less than six hours each week for such number of weeks as will, when taken in connection with the number of weeks such evening school shall be in session during the remainder of the current or calendar year, make up a total attendance on the part of said boy in said evening school of not less than six hours per week for a period of not less than 16 weeks or attendance upon a trade school for at least eight hours per week for not less than 16 weeks. Such certificate shall state fully the period of time which the boy to whom it is issued was in attendance upon such evening school or trade school.

§ 632. **Attendance officers.**—1. The school authorities of each city, union free school district, or common school district whose limits include in whole or in part an incorporated village, shall appoint and may remove at pleasure one or more attendance officers of such city or district, and shall fix their compensation and may prescribe their duties not inconsistent with this article and make rules and regulations for the performance thereof; and the superintendent of schools shall supervise the enforcement of this article within such city or school district.

2. The town board of each town shall appoint, subject to the written approval of the school commissioner of the district, one or more attendance officers, whose jurisdiction shall extend over all school districts in said town, and which are not by this section otherwise provided for, and shall fix their compensation, which shall be a town charge; and such attendance officers, appointed by said board, shall be removable at the pleasure of the school commissioner in whose commissioner district such town is situated.

§ 633. Arrest of truants.—1. The attendance officer may arrest without a warrant any child between 7 and 16 years of age who is a truant from instruction upon which he is lawfully required to attend within the city or district of such attendance officer. He shall forthwith deliver the child so arrested to a teacher from whom such child is then a truant, or, in case of habitual and incorrigible truants, shall bring them before a police magistrate for commitment to a truant school as provided in section 635.

2. The attendance officer shall promptly report such arrest and the disposition which he makes of such child, to the school authorities of the said city or district where such child is lawfully required to attend upon instruction.

3. A truant officer in the performance of his duties may enter, during business hours, any factory, mercantile or other establishment within the city or school district in which he is appointed and shall be entitled to examine employment certificates or registry of children employed therein on demand.

§ 634. Interference with attendance officer.—Any person interfering with an attendance officer in the lawful discharge of his duties and any person owning or operating a factory, mercantile or other establishment who shall refuse on demand to exhibit to such attendance officer the registry of the children employed or the employment certificate of such children shall be guilty of a misdemeanor.

§ 635. Truant schools.—1. The school authorities of any city or school district may establish schools, or set apart separate rooms in public school buildings, for children between 7 and 16 years of age, who are habitual truants from instruction upon which they are lawfully required to attend, or who are insubordinate or disorderly during their attendance upon such instruction, or irregular in such attendance. Such school or room shall be known as a truant school; but no person convicted of crimes or misdemeanors, other than truancy, shall be committed thereto.

2. School authorities may provide for the confinement, maintenance and instruction of such truants in such schools; and they, or the superintendent of schools in any city or school district, may, after reasonable notice to such child and the persons in parental relation to such child, and an opportunity for them to be heard, and with the consent in writing of the persons in parental relation to such child, order such child to attend such school, or to be confined and maintained therein, under such rules and regulations as such authorities may prescribe, for a period not exceeding two years; but in no case shall a child be so confined after he is 16 years of age.

3. Such authorities may order such a child to be confined and maintained during such period in any private school, orphans' home or similar institution

controlled by persons of the same religious faith as the persons in parental relation to such child, and which is willing and able to receive, confine and maintain such child, upon such terms as to compensation as may be agreed upon between such authorities and such private school, orphans' home or similar institution.

4. If the person in parental relation to such child shall not consent to either of such orders said person shall be proceeded against in court under section 625 of this chapter by the school authorities or such officer as they may designate. In case the person in parental relation to such child establishes to the satisfaction of the court that such child is beyond his control such child shall be proceeded against as a disorderly person, and upon conviction thereof, if the child was lawfully required to attend a public school, the child shall be sentenced to be confined and maintained in such truant school for a period not exceeding two years; or if such child was lawfully required to attend upon instruction otherwise than at a public school, the child may be sentenced to be confined and maintained for a period not exceeding two years in such private school, orphans' home or other similar institutions, if there be one, controlled by persons of the same religious faith as the persons in parental relation to such child, which is willing and able to receive, confine and maintain such child for a reasonable compensation. Such confinement shall be conducted with a view to the improvement and to the restoration, as soon as practicable, of such child to the institution elsewhere, upon which he may be lawfully required to attend.

5. The authorities committing any such child, and in cities and districts having a superintendent of schools such superintendent shall have authority, in his discretion, to parole at any time any truant so committed by them.

6. Every child lawfully suspended from attendance upon instruction for more than one week, shall be required to attend such truant school during the period of such suspension.

7. The school authorities of any city or school district, not having a truant school, may contract with any other city or district having a truant school, for the confinement, maintenance and instruction therein of children whom such school authorities might require to attend a truant school, if there were one in their own city or district.

8. Industrial training shall be furnished in every such truant school.

9. The expense attending the commitment and cost of maintenance of any truant residing in any city, or district, employing a superintendent of schools shall be a charge against such city, or district, and in all other cases shall be a county charge.

§ 636. Enforcement of law and withholding the state moneys by Commissioner of Education.—1. The Commissioner of Education shall supervise the enforcement of this law and he may withhold one-half of all public school moneys from any city or district, which, in his judgment, wilfully omits and refuses to enforce the provisions of this article, after due notice, so often and so long as such wilful omission and refusal shall, in his judgment, continue.

2. If the provisions of this article are complied with at any time within one year from the date on which said moneys were withheld, the moneys so withheld shall be paid over by said Commissioner of Education to such district or city, otherwise forfeited to the state.

CERTAIN EMPLOYMENTS OF CHILDREN PROHIBITED.**PENAL LAW, CHAPTER 40 OF CONSOLIDATED LAWS.**

§ 483. Endangering life or health of child.—A person who:

1. Wilfully causes or permits the life or limb of any child actually or apparently under the age of sixteen years to be endangered, or its health to be injured, or its morals to become depraved; or,
 2. Wilfully causes or permits such child to be placed in such a situation or to engage in such an occupation that its life or limb is endangered, or its health is likely to be injured, or its morals likely to be impaired,
- Is guilty of a misdemeanor.

3. Any parent or guardian or other person having custody of a child under sixteen years of age, except in the city of New York who omits to exercise due diligence in the control of such child, to prevent such child from violating any of the provisions of this article and any such person or any other person responsible for or who by any act or omission causes, encourages or contributes to the violation by any such child of said provisions shall be guilty of a misdemeanor and punishable accordingly.

§ 485. Certain employment of children prohibited.—A person who employs or causes to be employed, or who exhibits, uses, or has in custody, or trains for the purpose of the exhibition, use or employment of, any child actually or apparently under the age of sixteen years; or who having the care, custody or control of such a child as parent, relative, guardian, employer or otherwise, sells, lets out, gives away, so trains, or in any way procures or consents to the employment, or to such training, or use, or exhibition of such child; or who neglects or refuses to restrain such child from such training, or from engaging or acting:

1. As a rope or wire walker, gymnast, wrestler, contortionist, rider or acrobat; or upon any bicycle or similar mechanical vehicle or contrivance; or,
2. In begging or receiving or soliciting alms in any manner or under any pretense, or in any mendicant occupation; or in gathering or picking rags, or collecting cigar stumps, bones or refuse from markets; or in peddling; or,
3. In singing; or dancing; or playing upon a musical instrument; or in a theatrical exhibition; or in any wandering occupation; or,
4. In any illegal, indecent or immoral exhibition or practice; or in the exhibition of any such child when insane, idiotic, or when presenting the appearance of any deformity or unnatural physical formation or development; or,

5. In any practice or exhibition or place dangerous or injurious to the life, limb, health or morals of the child,

Is guilty of a misdemeanor.

But this section does not apply to the employment of any child as a singer or musician in a church, school or academy; or in teaching or learning the science or practice of music; or as a musician in any concert or in a theatrical exhibition, with the written consent of the mayor of the city, or the president of the board of trustees of the village where such concert or exhibition takes place. Such consent shall not be given unless forty-eight hours previous notice of the application shall have been served in writing upon the society mentioned in section four hundred and ninety-one of this chapter, if there

be one within the county, and a hearing had thereon if requested, and shall be revocable at the will of the authority giving it. It shall specify the name of the child, its age, the names and residence of its parents or guardians, the nature, time, duration and number of performances permitted, together with the place and character of the exhibition. But no such consent shall be deemed to authorize any violation of the first, second, fourth or fifth subdivisions of this section.

Not an unconstitutional infringement of the parents' rights or the rights of the child 8 N. Y. Cr. 383; *People v. Ewer*, 141 N. Y. 129.

§ 486. Prohibited acts; destitute children.—Any child actually or apparently under the age of sixteen years who is found:

1. Begging or receiving or soliciting alms, in any manner or under any pretense; or gathering or picking rags, or collecting cigar stumps, bones or refuse from markets; or,

* * * * *

5. Coming within any of the descriptions of children mentioned in section four hundred and eighty-five,

Must be arrested and brought before a proper court or magistrate, who may commit the child to any incorporated charitable reformatory, or other institution, and when practicable, to such as is governed by persons of the same religious faith as the parents of the child, or may make any disposition of the child such as now is, or hereafter may be authorized in the cases of vagrants, truants, paupers or disorderly persons, but such commitment shall, so far as practicable, be made to such charitable or reformatory institutions.

§ 488. Sending messenger boys to certain places.—A corporation or person employing messenger boys who:

1. Knowingly places or permits to remain in a disorderly house, or in an unlicensed saloon, inn, tavern or other unlicensed place where malt or spirituous liquors or wines are sold, any instrument or device by which communication may be had between such disorderly house, saloon, inn, tavern or unlicensed place, and any office or place of business of such corporation or person; or,

2. Knowingly sends or permits any person to send any messenger boy to any disorderly house, unlicensed saloon, inn, tavern, or other unlicensed place, where malt or spirituous liquors or wines are sold, on any errand or business whatsoever except to deliver telegrams at the door of such house,

Is guilty of a misdemeanor, and incurs a penalty of fifty dollars to be recovered by the district attorney.

Compare § 161-a of the Labor Law, *ante*.

TAKING APPRENTICE WITHOUT GUARDIAN'S CONSENT.

§ 493. Taking apprentice without consent of guardian.—A person who takes an apprentice without having first obtained the consent of his legal guardian or unless a written agreement has been entered into as prescribed by law, is guilty of a misdemeanor.

For the law regulating apprenticeship, see under INDUSTRIAL EDUCATION, *post*.

PAYMENT OF WAGES TO MINORS.**THE DOMESTIC RELATIONS LAW, CHAPTER 14 OF THE CONSOLIDATED LAWS.**

§ 72. Payment of wages to minor; when valid.—Where a minor is in the employment of a person other than his parent or guardian, payment to such minor of his wages is valid, unless such parent or guardian notify the employer in writing, within thirty days after the commencement of such service, that such wages are claimed by such parent or guardian, but whenever such notice is given at any time payments to the minor shall not be valid for services rendered thereafter.

HOURS OF LABOR.*

DRUG CLERKS

PUBLIC HEALTH LAW, CHAPTER 45 OF THE CONSOLIDATED LAWS.

§ 236. Working hours and sleeping apartments.—No apprentice or employee in any pharmacy or drug store shall be required or permitted to work more than seventy hours a week. Nothing in this section prohibits working six hours overtime any week for the purpose of making a shorter succeeding week, provided, however, that the aggregate number of hours in any such two weeks shall not exceed one hundred and thirty-two hours. The hours shall be so arranged that an employee shall be entitled to and shall receive at least one full day off in two consecutive weeks. No proprietor of any pharmacy or drug store shall require any clerk to sleep in any room or apartment in or connected with such store that does not comply with the sanitary regulations of the local board of health. [As am'd by L. 1911, ch. 630.]

§ 240. Revocation of license; misdemeanors; violations and penalties.—

The wilful and repeated violation of any of the provisions of this article or the rules is sufficient cause for the revocation of a license or certificate. The license or certificate revoked shall on formal notice be delivered immediately to the board.

Misdemeanors. It is a misdemeanor for

9. Any proprietor of a pharmacy or drug store to require more than seventy working hours a week in other arrangement than that permitted by section two hundred and thirty-six; and for any proprietor of a pharmacy or drug store to violate the provisions of the same section in regard to sleeping apartments. [As am'd by L. 1910, ch. 422 and L. 1911, ch. 630.]

PUBLIC HOLIDAYS.

GENERAL CONSTRUCTION LAW, CHAPTER 22 OF THE CONSOLIDATED LAWS.

§ 24. Holidays; half-holiday.—The term holiday includes the following days in each year: The first day of January, known as New Year's day; the twelfth day of February, known as Lincoln's birthday; the twenty-second of February, known as Washington's birthday; the thirtieth day of May, known as Memorial day; the fourth day of July, known as Independence day; the first Monday of September, known as Labor day; the twelfth day of October, known as Columbus day, and the twenty-fifth day of December, known as Christmas day, and if either of such days is Sunday, the next day thereafter; each general election day and each day appointed by the president of the United States or by the governor of this state as a day of general

* Most of the legal restrictions upon the hours of labor are to be found in the Labor Law (articles 1, 6, 8 and 11, ante). See also under Public Works, post.

thanksgiving, general fasting and prayer, or other general religious observances. The term half-holiday includes the period from noon to midnight of each Saturday which is not a holiday. [*As am'd by L. 1909, ch. 112.*]

SUNDAY LABOR.

ARTICLE 192 OF PENAL LAW, CHAPTER 40 OF THE CONSOLIDATED LAWS.

§ 2143. **Labor prohibited on Sunday.**—All labor on Sunday is prohibited, excepting the works of necessity and charity. In works of necessity or charity is included whatever is needful during the day for the good order, health or comfort of the community.

§ 2144. **Persons observing another day as a Sabbath.**—It is a sufficient defense to a prosecution for work or labor on the first day of the week that the defendant uniformly keeps another day of the week as holy time, and does not labor on that day, and that the labor complained of was done in such manner as not to interrupt or disturb other persons in observing the first day of the week as holy time.

§ 2146. **Trades, manufactures, and mechanical employments prohibited on Sunday.**—All trades, manufactures, agricultural or mechanical employments upon the first day of the week are prohibited, except that when the same are works of necessity they may be performed on that day in their usual and orderly manner, so as not to interfere with the repose and religious liberty of the community.

§ 2147. **Public traffic on Sunday.**—All manner of public selling or offering for sale of any property upon Sunday is prohibited, except that articles of food may be sold and supplied at any time before ten o'clock in the morning, and except also that meals may be sold to be eaten on the premises where sold or served elsewhere by caterers; and prepared tobacco, milk, ice and soda-water in places other than where spirituous or malt liquors or wines are kept or offered for sale, and fruit, flowers, confectionery, newspapers, drugs, medicines and surgical appliances may be sold in a quiet and orderly manner at any time of the day. The provisions of this section, however, shall not be construed to allow or permit the public sale or exposing for sale or delivery of uncooked flesh foods, or meats, fresh or salt, at any hour or time of the day.

The prohibition of the sale of uncooked meat at any hour on Sunday is constitutional: *People ex rel. Woodin v. Hagan*, 36 Misc. 349.

§ 2153. **Barbering on Sunday.**—Any person who carries on or engages in the business of shaving, hair cutting or other work of a barber on the first day of the week, shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be fined not more than five dollars; and upon a second conviction for a like offense shall be fined not less than ten dollars and not more than twenty-five dollars, or be imprisoned in the county jail for a period of not less than ten days, nor more than twenty-five days, or be punishable by both such fine and such imprisonment at the discretion of the court or magistrate; provided, that in the village of Saratoga Springs, from the fifteenth day of June to the fifteenth day of September, inclusive, and in the city of New York throughout the year, barber shops or other places where a barber is engaged in shaving, hair cutting or other work of a barber, may be kept open, and the work of a barber may be performed therein until one o'clock of the afternoon of the first day of the week.

Held to be constitutional: *People v. Havnor*, 149 N. Y. 195 (1896).

VACATIONS OF PUBLIC EMPLOYEES.

ARTICLE 4 OF THE PUBLIC OFFICERS LAW, CHAPTER 47 OF THE CONSOLIDATED LAWS.

§ 71. Vacations for employees of the state and the several civil subdivisions thereof.—The executive officers of every public department, bureau, commission, or board of the state and of each county, city or other civil division thereof are authorized and empowered to grant to every employee under their supervision, who shall have been in such employ for at least one year, a vacation of not less than two weeks in each year, and for such further period of time as in the opinion and judgment of the executive officers, the duties, position, length of service and other circumstances may warrant, at such time as the executive officers may fix and during such vacation the said employee shall be allowed the same compensation as if actually employed. [*Added by L. 1910, ch. 680.*]

TITLE 3 OF CHAPTER 23 OF THE GREATER NEW YORK CHARTER.

§ 1567. The executive heads of the various departments are authorized and empowered to grant to every employee of the city of New York, or of any department or bureau thereof, and of the department of education, a vacation of not less than two weeks in each year and for such further period of time as the duties, length of service and other qualifications of an employee may warrant, at such time as the executive head of the department or any officer having supervision over said employee may fix, and for such time they shall be allowed the same compensation as if actually employed, except that no such vacation shall be granted to per diem employees for longer than two weeks and only during the month of June, July and August. [*Added by L. 1910, ch. 879.*]

The granting of vacations under this section is permissive, not mandatory: *People ex rel. Denery v. Drummond*, in Supreme Court in New York City, Aug., 1910.

DUTIES AND LIABILITIES OF EMPLOYERS AND EMPLOYEES.

LIABILITY OF RAILWAY COMPANIES.*

RAILROAD LAW, CHAPTER 49 OF THE CONSOLIDATED LAWS.

§ 64. Injuries to employees.—In all actions against a railroad corporation, foreign or domestic, doing business in this state, or against a receiver thereof, for personal injury to, or death resulting from personal injury of any person, while in the employment of such corporation, or receiver, arising from the negligence of such corporation or receiver or of any of its or his officers or employees, every employee, or his legal representatives, shall have the same rights and remedies for an injury, or for death, suffered by him, from the act or omission of such corporation or receiver or of its or his officers or employees, as are now allowed by law, and, in addition to the liability now existing by law, it shall be held in such actions that persons engaged in the service of any railroad corporation, foreign or domestic, doing business in this state, or in the service of a receiver thereof, who are intrusted by such corporation or receiver, with the authority of superintendence, control or command of other persons in the employment of such corporation or receiver, or with the authority to direct or control any other employee in the performance of the duty of such employee, or who have, as a part of their duty, for the time being, physical control or direction of the movement of a signal, switch, locomotive engine, car, train or telegraph office, are vice-principals of such corporation or receiver, and are not fellow-servants of such injured or deceased employee. If an employee, engaged in the service of any such railroad corporation, or of a receiver thereof, shall receive any injury by reason of any defect in the condition of the ways, works, machinery, plant, tools or implements, or of any car, train, locomotive or attachment thereto belonging, owned or operated, or being run and operated by such corporation or receiver, when such defect could have been discovered by such corporation or receiver, by reasonable and proper care, tests or inspection, such corporation or receiver shall be deemed to have had knowledge of such defect before and at the time such injury is sustained; and when the fact of such defect shall be proved upon the trial of any action in the courts of this state, brought by such employee or his legal representatives, against any such railroad corporation or receiver, on account of such injuries so received, the same shall be prima facie evidence of negligence on the part of such corporation or receiver. This section shall not affect actions or causes of action existing on May twenty-ninth, nineteen hundred and six; and no contract, receipt, rule or regulation between an employee and a railroad corporation or receiver, shall exempt or limit the liability of such corporation or receiver from the provisions of this section.

* For the General Employers' Liability Law, see Article 14 of the Labor Law, *ante*.

DAMAGES FOR INJURIES CAUSING DEATH.

ARTICLE I OF THE CONSTITUTION.

Section 18. The right of action now existing to recover damages for injuries resulting in death shall never be abrogated; and the amount recoverable shall not be subject to any statutory limitation.

CODE OF CIVIL PROCEDURE.

§ 1902. The executor or administrator of a decedent, who has left, him or her surviving, a husband, wife, or next of kin, may maintain an action to recover damages for a wrongful act, neglect, or default, by which the decedent's death was caused, against a natural person who, or a corporation which, would have been liable to an action in favor of the decedent, by reason thereof, if death had not ensued. Such an action must be commenced within two years after the decedent's death.

CRIMINAL LIABILITY FOR NEGLIGENCE.

PENAL LAW, CHAPTER 40 OF THE CONSOLIDATED LAWS, § 1052 (PART).

Negligent use of machinery.—A person who, by any act of negligence or misconduct in a business or employment in which he is engaged, or in the use or management of any machinery, animals, or property of any kind, intrusted to his care, or under his control, or by any unlawful, negligent or reckless act, not specified by or coming within the foregoing provisions of this article, or the provisions of some other statute, occasions the death of a human being, is guilty of manslaughter in the second degree.

Persons in charge of steamboats.—A person having charge of a steamboat used for the conveyance of passengers, or of a boiler or engine thereof, who, from ignorance, recklessness, or gross neglect, or for the purpose of excelling any other boat in speed, creates, or allows to be created, such an undue quantity of steam as to burst the boiler, or other apparatus in which it is generated or contained, or to break any apparatus or machinery connected therewith, whereby the death of a human being is occasioned, is guilty of manslaughter in the second degree.

Persons in charge of steam engines.—An engineer or other person, having charge of a steam boiler, steam engine, or other apparatus for generating or applying steam, employed in a boat or railway, or in a manufactory, or in any mechanical works, who wilfully, or from ignorance or gross neglect, creates or allows to be created, such an undue quantity of steam as to burst the boiler, engine, or apparatus, or to cause any other accident, whereby the death of a human being is produced, is guilty of manslaughter in the second degree.

§ 1893. **Mismanagement of steam boilers.**—An engineer or other person having charge of a steam boiler, steam engine, or other apparatus for generating or employing steam, employed in a railway, manufactory, or other mechanical works, who, wilfully or from ignorance or gross neglect, creates or allows to be created such an undue quantity of steam as to burst the boiler, engine or apparatus, or cause any other accident whereby human life is endangered, is guilty of a misdemeanor.

See also §§ 1891, 1892.

EMPLOYEES NOT TO DISPOSE OF MATERIAL FURNISHED.

PENAL LAW, CHAPTER 40 OF THE CONSOLIDATED LAWS.

§ 1310. Conversion of materials furnished to a person for purpose of being manufactured.—Any person who shall wilfully pawn, pledge, sell or convert to his or her own use any material furnished to him or her for the purpose of being manufactured, if the same be of the value of more than twenty-five dollars, shall, upon conviction thereof, be adjudged guilty of grand larceny, and imprisoned in a state prison for a term not exceeding five years, but if the same be of the value of twenty-five dollars or under, he or she shall, upon conviction, be adjudged guilty of petit larceny, and be punished by imprisonment in a county jail not exceeding six months, or by fine not exceeding one hundred dollars, or by both such fine and imprisonment.

Nothing in this section contained shall be deemed or held to discharge any mechanic's lien, or right of lien in favor of any employee as now recognized by law.

CORRUPT INFLUENCING OF AGENTS, EMPLOYEES OR SERVANTS.

PENAL LAW, CHAPTER 40 OF THE CONSOLIDATED LAWS.

§ 439. Corrupt influencing of agents, employees or servants.—Whoever gives, offers or promises to an agent, employee or servant, any gift or gratuity whatever, without the knowledge and consent of the principal, employer or master of such agent, employee or servant, with intent to influence his action in relation to his principal's, employer's or master's business; or an agent, employee or servant who without the knowledge and consent of his principal, employer or master, requests or accepts a gift or gratuity or a promise to make a gift or to do an act beneficial to himself, under an agreement or with an understanding that he shall act in any particular manner to his principal's, employer's or master's business; or an agent, employee or servant, who, being authorized to procure materials, supplies or other articles either by purchase or contract for his principal, employer or master, or to employ service or labor for his principal, employer or master, receives directly or indirectly, for himself or for another, a commission, discount or bonus from the person who makes such sale or contract, or furnishes such materials, supplies or other articles, or from a person who renders such service or labor; and any person who gives or offers such an agent, employee or servant such commission, discount or bonus shall be guilty of a misdemeanor and shall be punished by a fine of not less than ten dollars nor more than five hundred dollars, or by such fine and by imprisonment for not more than one year.

Cf. "Bribery of labor representatives," under TRADE UNIONS, *post*.

POLITICAL AND LEGAL RIGHTS AND PRIVILEGES OF WORKINGMEN.

ALLOWING TIME FOR EMPLOYEES TO VOTE WITHOUT LOSS OF PAY.

ELECTION LAW, CHAPTER 17 OF THE CONSOLIDATED LAWS.

§ 365. Time allowed employees to vote.—Any person entitled to vote at a general election held within this state, shall on the day of such election be entitled to absent himself from any service or employment in which he is then engaged or employed, for a period of two hours, while the polls of such election are open. If such voter shall notify his employer before the day of such election of such intended absence, and if thereupon two successive hours for such absence shall be designated by the employer, and such absence shall be during such designated hours, or if the employer upon the day of such notice makes no designation, and such absence shall be during any two consecutive hours while such polls are open, no deduction shall be made from the usual salary or wages of such voter, and no other penalty shall be imposed upon him by his employer by reason of such absence. This section shall be deemed to include all employees of municipalities.

PENAL LAW, CHAPTER 40 OF THE CONSOLIDATED LAWS.

§ 759. Refusal to permit employees to attend election.—A person or corporation who refuses to an employee entitled to vote at an election or town meeting, the privilege of attending thereat, as provided by the election law, or subjects such employee to a penalty or reduction of wages because of the exercise of such privilege, is guilty of a misdemeanor.

TO PREVENT EMPLOYERS FROM COERCING EMPLOYEES IN THEIR EXERCISE OF THE SUFFRAGE.

PENAL LAW, CHAPTER 40 OF THE CONSOLIDATED LAWS.

§ 772. Duress and intimidation of voters.—Any person or corporation who directly or indirectly:

1. Uses or threatens to use any force, violence or restraint, or inflicts or threatens to inflict any injury, damage, harm or loss, or in any other manner practices intimidation upon or against any person in order to induce or compel such person to vote or refrain from voting at any election or to vote or refrain from voting for or against any particular person or for or against any proposition submitted to voters at such election, or to place or cause to be placed or refrain from placing or causing to be placed his name upon a registry of voters, or on account of such person having voted or refrained from voting at such election, or having voted or refrained from voting for or against any particular person or persons, or for or against any proposition submitted to voters at such election, or having registered or refrained from registering as a voter; or,

2. By abduction, duress or any forcible or fraudulent device or contrivance whatever impedes, prevents or otherwise interferes with the free exercise of the elective franchise by any voter, or compels, induces or prevails upon any voter to give or refrain from giving his vote for or against any particular person at any election; or,

3. Being an employer pays his employees the salary or wages due in "pay envelopes," upon which there is written or printed any political motto, device or argument containing threats, express or implied, intended or calculated to influence the political opinions or actions of such employees, or within ninety days of a general election puts or otherwise exhibits in the establishment or place where his employees are engaged in labor, any handbill or placard containing any threat, notice or information, that if any particular ticket or candidate is elected or defeated, work in his place or establishment will cease, in whole or in part, his establishment be closed up, or the wages of his employees reduced, or other threats, express or implied, intended or calculated to influence the political opinions or actions of his employees,

Is guilty of a misdemeanor, and if a corporation shall in addition forfeit its charter.

EXEMPTION OF MECHANICS' TOOLS FROM ATTACHMENT.

CODE OF CIVIL PROCEDURE (CHAPTER 13, TITLE 2, ARTICLE I).

§ 1390. The following personal property, when owned by a householder is exempt from levy and sale by virtue of an execution, and each movable article thereof continues to be so exempt, while the family, or any of them, are removing from one residence to another:

* * * * *

6. The tools and implements of a mechanic, necessary to the carrying on of his trade, not exceeding in value twenty-five dollars.

§ 1391. In addition to the exemptions, allowed by the last section, necessary household furniture, working tools and team, professional instruments, furniture and library, not exceeding in value two hundred and fifty dollars, together with the necessary food for the team, for ninety days, are exempt from levy and sale by virtue of an execution, when owned by a person, being a householder, or having a family for which he provides, except where the execution is issued upon a judgment, recovered wholly upon one or more demands, either for work performed in the family as a domestic or for the purchase money of one or more articles, exempt as prescribed in this or the last section. Where a judgment has been recovered and where an execution issued upon said judgment has been returned wholly or partly unsatisfied, and where any wages, debts, earnings, salary, income from trust funds or profits are due and owing to the judgment debtor or shall thereafter become due and owing to him, to the amount of twelve dollars or more per week, the judgment creditor may apply to the court in which said judgment was recovered or the court having jurisdiction of the same without notice to the judgment debtor and upon satisfactory proof of such facts by affidavits or otherwise, the court, if a court not of record, a judge or justice thereof, must issue, or if a court of record, a judge or justice must grant an order directing that an execution issue against the wages, debts, earnings, salary, income from trust funds or profits of said judgment debtor, and on presentation of such execution by the officer to whom delivered for collection to the person or persons from whom such wages, debts, earnings, salary, income from trust funds or profits are due and owing, or may thereafter become due and owing to the judgment debtor, said execution shall become a lien and a continuing levy upon the wages, earnings, debts, salary, income from trust

funds or profits due or to become due to said judgment debtor to the amount specified therein which shall not exceed ten per centum thereof, and said levy shall be a continuing levy until said execution and the expenses thereof are fully satisfied and paid or until modified as hereinafter provided, but only one execution against the wages, debts, earnings, salary, income from trust funds or profits of said judgment debtor shall be satisfied at one time and where more than one execution has been issued or shall be issued pursuant to the provisions of this section against the same judgment debtor, they shall be satisfied in the order of priority in which such executions are presented to the person or persons from whom such wages, debts, earnings, salary, income from trust funds or profits are due and owing. It shall be the duty of any person or corporation, municipal or otherwise, to whom said execution shall be presented, and who shall at such time be indebted to the judgment debtor named in such execution, or who shall become indebted to such judgment debtor in the future, and while said execution shall remain a lien upon said indebtedness to pay over to the officer presenting the same, such amount of such indebtedness as such execution shall prescribe until said execution shall be wholly satisfied and such payment shall be a bar to any action therefor by any such judgment debtor. If such person or corporation, municipal or otherwise, to whom said execution shall be presented shall fail, or refuse to pay over to said officer presenting said execution, the percentage of said indebtedness, he shall be liable to an action therefor by the judgment creditor named in such execution, and the amount so recovered by such judgment creditor shall be applied towards the payment of said execution. Either party may apply at any time to the court from which such execution shall issue, or to any judge or justice issuing the same, or to the county judge of the county, and in any county where there is no county judge, to any justice of the city court upon such notice to the other party as such court, judge, or justice shall direct for a modification of said execution, and upon such hearing the said court, judge or justice may make such modification of said execution as shall be deemed just, and such execution as so modified shall continue in full force and effect until fully paid and satisfied, or until further modified as herein provided. This section, so far as it relates to wages and salary, due and owing or to become due and owing to the judgment debtor, shall not apply to judgments recovered more than ten years prior to September first, nineteen hundred and eight, and any execution heretofore issued upon such judgments pursuant to the order heretofore granted under this section shall, when this act takes effect, cease to be a lien and continuing levy upon wages and salary thereafter to become due and owing to the judgment debtor. [*As am'd by L. 1911, chs. 489 and 532.*]

The above section exempts from attachment wages of less than \$12 per week. Section 1879 of the Code of Civil Procedure also exempts from execution on judgment creditor's action "the earnings of the judgment debtor for his personal services, rendered within sixty days next before the commencement of the action, where it is made to appear, by his oath, or otherwise that those earnings are necessary for the use of a family, wholly or partly supported by his labor."

This section applies to state employees: See section 2-a of the State Finance Law (which provides also for semi-monthly pay for such employees and which was added in 1910) given under PUBLIC WORK AND PUBLIC CONTRACTS, *post*. Prior to the addition of this section to the Finance Law, the garnishee law had been held not to apply to state employees: *Osterhoudt v. Stade*, 133 App. Div. 83.

TAKING SECURITY FOR USURIOUS LOANS.

PENAL LAW, CHAPTER 40 OF THE CONSOLIDATED LAWS.

§ 2400. Taking security upon certain property for usurious loans.—A person who takes security, upon any household furniture, sewing machines, plate or silverware in actual use, tools or implements of trade, wearing apparel or jewelry, for a loan or forbearance of money, or for the use or sale of his personal credit, conditioned upon the payment of a greater rate than six per centum per annum or, who as security for such loan, use or sale of personal credit as aforesaid, makes a pretended purchase of such property from any person, upon the like condition, and permits the pledger to retain the possession thereof is guilty of a misdemeanor.

ASSIGNMENT OF WAGES.

PERSONAL PROPERTY LAW, CHAPTER 41 OF THE CONSOLIDATED LAWS.

§ 42. Regulating loans of money on salaries.—1. Any person or persons, firm, corporation or company, who shall after the passage of this act, make to any employee an advance of money, or loan, on account of salary or wages due or to be earned in the future by such individual, upon an assignment or note covering such loans or advances, shall not acquire any right to collect or attach the same while in the possession or control of the employer, unless such note or assignment is dated on the same day on which such loan is actually made, and unless within a period of three days after such loan and assignment or note are actually made the party making such loan or loans and taking such assignment or notes shall have filed with the employer or employers of the individual or individuals so assigning his present or prospective salary or wages, a duly authenticated copy of such agreement or assignment or notes under which the claim is made. The day of making a loan or advance within the meaning of this act shall be deemed to be the day when the money is delivered to the borrower, and the subsequent execution of an instrument by virtue of a power of attorney shall not be deemed to affect the time of the actual making of such loan or advance.

2. No action shall be maintained in any of the courts of this state, brought by the holder of any such contract, assignment or notes, given by an employee for moneys loaned on account of salary or wages, in which it is sought to charge in any manner the employer or employers, unless a copy of such agreement, assignment or notes, together with a notice of lien, was duly filed with the employer or employers of the person making such agreement, assignment or notes, by the person or persons, corporation or company making said loan within three days after the said loan was actually made and the said agreement, assignment or notes were given as provided in the previous section.

3. Every person, firm or corporation engaged in or seeking to engage in the business of loaning money upon security of an assignment of salary or wages either earned or to be earned shall, on or before the first day of July next ensuing the passage of this act, file with the clerk of the county in which said person, firm or corporation has its place of business or transacts business a statement under oath containing the name and residence of the individual; or in case of a firm, the names and residences of the

partners; or in the case of a corporation, the names and residences of the officers and directors, managers or trustees of such corporation; and the place or places where said business is transacted by such an individual, firm or corporation. After July the first next ensuing the passage of this act it shall be unlawful to engage in the business of loaning money in the manner set forth in this act without, prior to engaging in such business, filing a statement as provided in this act.

4. The several county clerks of this state shall keep an alphabetical index of all persons, firms or corporations filing certificates provided for herein, and for the indexing and filing of such certificates, they shall receive a fee of twenty-five cents. A copy of such certificate, duly certified to by the county clerk in whose office the same was filed, shall be presumptive evidence in all courts of law in this state of the facts therein contained.

5. After the passage of this act, no persons shall directly or indirectly receive or accept for the use and sale of his personal credit or for making any advance or loan of money, either wholly or partly in anticipation of salary or wages due or to be earned, a greater sum than at the rate of eighteen per centum per annum on the amount of such loan or advance, either as a bonus, interest or otherwise, or under the guise of a charge for investigating the status of a person applying for such loan or advance, drawing of papers or other service in connection with such loan or advance, except such charges as are now permitted by section three hundred and eighty of chapter twenty-five of the laws of nineteen hundred and nine, known as the "general business law."

6. Every person, firm, corporation, director, agent, officer or member thereof who shall violate any provision of this act, directly or indirectly, or assent to such violation, shall be guilty of a misdemeanor. [*As am'd by L. 1911, ch. 626.*]

See also § 13 of the Labor Law, *ante*.

ORDINARY EXEMPTIONS NOT VALID AGAINST WAGE DEBTS.

LAWS OF 1902, CHAPTER 580.

AN ACT in relation to the municipal court of the city of New York, its officers and marshals.

§ 274. Judgment in favor of wage earners.—In an action, brought in the municipal court, by a journeyman, laborer, or other employee whose employment answered to the general description of wage earner, for services rendered or wages earned in such capacity, if the plaintiff recovers a judgment for a sum not exceeding fifty dollars, exclusive of costs, and the action shall have been brought within two months after the cause of action accrued, no property of the defendant is exempt from levy and sale by virtue of an execution against property, issued thereupon; and, if such an execution is returned wholly or partly unsatisfied, the clerk must, upon the application of the plaintiff, issue an execution against the person of the defendant for the sum remaining uncollected, if the indorsement required by this act to the effect that defendant was liable to arrest was complied with. A defendant arrested by virtue of an execution so issued against his person, must be actually confined in the jail, and is not entitled to the liberties thereof; but he must be discharged after having been so confined for fifteen days. After his dis

charge another execution against his person cannot be issued upon the judgment, but the judgment creditor may enforce the judgment against property as if the execution, from which the judgment debtor is discharged, has been returned, without his being taken. [*As am'd by L. 1907, ch. 425.*]

MAKING EMPLOYEES PREFERRED CREDITORS.

DEBTOR AND CREDITOR LAW, CHAPTER 12 OF THE CONSOLIDATED LAWS.

§ 27. **Wages preferred claims.**—In all distribution of assets under all assignments made in pursuance of this article, the wages or salaries actually owing to the employees of the assignor or assignors at the time of the execution of the assignment for services rendered within one year prior to the execution of the assignment, shall be preferred before any other debt; and should the assets of the assignor or assignors not be sufficient to pay in full all the claims preferred, pursuant to this section, they shall be applied to the payment of the same pro rata to the amount of each such claim.

Cf. § 9 of the Labor Law, "Payment of wages by receivers," *ante*; and the Lien Law, ch. 38 of the Consolidated Laws.

The statute is constitutional: 104 N. Y. 606.

LIABILITY OF STOCKHOLDERS FOR WAGE DEBTS.

STOCK CORPORATION LAW, CHAPTER 59 OF THE CONSOLIDATED LAWS.

§ 56. **Liabilities of stockholders.**—Every holder of capital stock not fully paid, in any stock corporation, shall be personally liable to its creditors, to an amount equal to the amount unpaid on the stock held by him for debts of the corporation contracted while such stock was held by him. As to existing corporations the liability imposed by this section shall be in lieu of the liability imposed upon stockholders of any existing corporation, under any general or special law, excepting laws relating to moneyed corporations, and corporations and associations for banking purposes, on account of any indebtedness hereafter contracted or any stock hereafter issued; but nothing in this section contained shall create or increase any liability of stockholders of any existing corporation under any general or special law.

§ 57. **Liabilities of stockholders to laborers, servants or employees.**—The stockholders of every stock corporation shall jointly and severally be personally liable for all debts due and owing to any of its laborers, servants or employees other than contractors, for services performed by them for such corporation. Before such laborer, servant or employee shall charge such stockholder for such services, he shall give him notice in writing, within thirty days after the termination of such services, that he intends to hold him liable, and shall commence an action therefor within thirty days after the return of an execution unsatisfied against the corporation upon a judgment recovered against it for services.

§ 58. **Non-liability in certain cases.**—No person holding stock in any corporation as collateral security, or as executor, administrator, guardian or trustee, unless he shall have voluntarily invested the trust funds in such stock, shall be personally subject to liability as a stockholder; but the person pledging such stock shall be considered the holder thereof and shall be liable as stockholder, and the estates and funds in the hands of such executor, administrator, guardian or trustee shall be liable in the like manner and

to the same extent as the testator or intestate, or the ward or person interested in such trust fund would have been, if he had been living and competent to act and held the same stock in his own name, unless it appears that such executor, administrator, guardian or trustee voluntarily invested the trust funds in such stocks, in which case he shall be personally liable as a stockholder.

LIABILITY OF RAILROAD CORPORATIONS TO EMPLOYEES OF CONTRACTORS FOR WAGE DEBTS.

RAILROAD LAW, CHAPTER 49 OF THE CONSOLIDATED LAWS.

§ 50. Liability of corporation to employees of contractor.—An action may be maintained against any railroad corporation by any laborer for the amount due him from any contractor for the construction of any part of its road, for ninety or any less number of days' labor performed by him in constructing such road, if within twenty days thereafter a written notice shall have been served upon the corporation, and the action shall have been commenced after the expiration of ten days and within six months after the service of such notice, which shall contain a statement of the month and particular days upon which the labor was performed and for which it was unpaid, the price per day, the amount due, the name of the contractor from whom due, and the section upon which performed, and shall be signed by the laborer or his attorney and verified by him to the effect that of his own knowledge the statements contained in it are true. The notice shall be served by delivering the same to an engineer, agent or superintendent having charge of the section of the road, upon which the labor was performed, personally, or by leaving it at his office or usual place of business with some person of suitable age or discretion; and if the corporation has no such agent, engineer or superintendent, or in case he can not be found and has no place of business open, service may in like manner be made on any officer or director of the corporation.

See further Lien Law, § 6, "Liens for labor on railroad"; also § 145 of the Canal Law providing security for wages of laborers on canals, *post*.

Laborers employed by sub-contractors are protected by this act (42 Hun 53).

NO COURT FEES REQUIRED IN CERTAIN SUITS FOR WAGES.

LAWS OF 1902, CHAPTER 580.

AN ACT in relation to the municipal court of the city of New York, its officers and marshals.

§ 44. Where employee is party.—When an action is brought by an employee against an employer for services performed by such employee, male or female, the clerk of the said municipal court in the district in which the action is brought, shall issue a free summons when the plaintiff's demand is less than fifty dollars and the plaintiff is a resident of the city of New York, and proof by the plaintiff's own affidavit that he has a good and meritorious cause of action and of the nature of such action and of said plaintiff's residence, and whether previous application therefor has been made, shall be duly presented to and filed with the clerk of the municipal court where such action shall be brought and he shall not demand or receive any fee whatsoever from

the plaintiff or his agents or attorneys in such action, unless the plaintiff shall demand a trial jury, in which case the plaintiff must pay to the clerk of the municipal court where such action shall be pending the sum of four dollars and fifty cents.

§ 340. Costs in action by working woman.—¹ In an action brought to recover a sum of money for wages earned by a female employee, other than a domestic servant; or for material furnished by such an employee, in the course of her employment, or in or about the subject-matter thereof, or for both, the plaintiff, if entitled to costs, recovers the sum of ten dollars as costs, in addition to the costs allowed in this court, unless the amount of damages recovered is less than ten dollars; in which case, the plaintiff recovers the sum of five dollars as such additional costs. When the employee is the plaintiff in such an action, she is entitled upon a settlement thereof, to the full amount of costs, which she would have recovered, if judgment had been rendered in her favor, for the sum received by her upon the settlement.

§ 348. Employee's action; no fees.—When the action is brought by an employee against an employer for services performed by such employee, male or female, the clerks of this court shall not demand or receive any fees whatsoever from the plaintiff or his agents or attorneys in such action, if the plaintiff shall present proof by his own affidavit that his demand is less than fifty dollars, that he is a resident of the city of New York, that he has a good and meritorious cause of action against the defendant, and the nature thereof; that he has made either a written or a personal demand upon the defendant or his agent or representative, for payment thereof, and that payment was refused. Except that if the plaintiff shall demand a trial by jury, he must pay to the clerk the fees therefor prescribed in this act.

Sec. 274 of the Municipal Code provides for body executions against employers whose property is insufficient to satisfy judgments in wage suits. (See "Ordinary exemptions not valid against wage debts," *ante*.)

MARRIED WOMAN'S RIGHT OF ACTION FOR WAGES, ETC.

DOMESTIC RELATIONS LAW, CHAPTER 14 OF THE CONSOLIDATED LAWS.

§ 60. Married woman's right of action for wages.—A married woman shall have a cause of action in her own sole and separate right for all wages, salary, profits, compensation or other remuneration for which she may render work, labor or services, or which may be derived from any trade, business or occupation carried on by her, and her husband shall have no right of action therefor unless she or he with her knowledge and consent has otherwise expressly agreed with the person obligated to pay such wages, salary, profits, compensation or other remuneration. In any action or proceeding in which a married woman or her husband shall seek to recover wages, salary, profits, compensation or other remuneration for which such married woman has rendered work, labor or services or which was derived from any trade, business or occupation carried on by her or in which the loss of such wages, salary, profits, compensation or other remuneration shall be an item of damage claimed by a married woman or her husband, the presumption of law in all such cases shall be that such married woman is alone entitled thereto, unless the contrary expressly appears. This section shall not affect any right, cause of action or defense existing prior to May seventeenth, nineteen hundred and five.

PUBLIC WORK AND CONTRACTS.

[Besides sections 3 and 19 of the Labor Law, *ante*, there is on the statute books a large body of laws for the regulation of wages, hours, etc., of persons employed on public work. Of this legislation only a few examples can be reproduced in this compilation. In addition to the statutes respecting employees of state prisons and armories, the Insanity Law (ch. 27 of the Consolidated Laws) contains an extremely detailed schedule of wages and salaries (*cf.* Report of the Commissioner of Labor, 1904, p. 105). Of the numerous laws fixing the terms of employment of municipal employees, again, only one example is here printed — that of the street cleaners of New York City. Nearly every city charter contains provisions as to the hours of work, compensation, etc., of policemen, firemen, and other employees, while the larger cities have established, through action of the Legislature, retirement funds or service pensions. An example of the latter may be seen in the provision for street cleaners' pensions in New York City given below. Such privileges are deemed to counterbalance the loss of certain constitutional rights upon entrance in the public service; firemen, for example, having no right to become members of an association that has for its object the influencing of legislation (*People ex rel. Clifford v. Scannell*, 74 App. Div. 406). The validity of this legislation has never been successfully challenged, so far as it relates to direct employment by public authorities. Public work done by contract, however, has been distinguished by the courts from work done by the employees of public authorities, but the amendment of the Constitution of 1905 brought such work under the authority of legislative enactment.]

EMPOWERING THE LEGISLATURE TO REGULATE THE CONDITIONS OF EMPLOYMENT ON PUBLIC WORK.

CONSTITUTION OF THE STATE OF NEW YORK, ARTICLE XII.

Section 1. It shall be the duty of the Legislature to provide for the organization of cities and incorporated villages, and to restrict their power of taxation, assessment, borrowing money, contracting debts, and loaning their credit, so as to prevent abuses in assessments and in contracting debt by such municipal corporations; and the Legislature may regulate and fix the wages or salaries, the hours of work or labor, and make provision for the protection, welfare and safety of persons employed by the State or by any county, city, town, village or other civil division of the State, or by any contractor or sub-contractor performing work, labor or services for the State, or for any county, city, town, village or other civil division thereof. [*As amended in 1905.*]

LABORERS EMPLOYED IN THE STATE SERVICE.

CIVIL SERVICE LAW, CHAPTER 7 OF THE CONSOLIDATED LAWS.

§ 10. Rules for the classified state service. * * * No examination or registration shall be required of persons to be employed as laborers in the state service. * * * * *

Cf. § 18 below, requiring registration of laborers for *municipal* employment.

SEMI-MONTHLY PAYMENT OF WAGES TO STATE EMPLOYEES.

STATE FINANCE LAW, CHAPTER 56 OF THE CONSOLIDATED LAWS.

§ 2-a. The salaries of all officers of the state, and the wages of all employees thereof shall be due from and payable by the state twice each month, on the first and sixteenth days thereof, except where such days fall

upon Sunday or a legal holiday when such payments shall be made upon the succeeding business day. Said salaries and wages shall be subject to all the provisions of section thirteen hundred and ninety-one of the code of civil procedure applicable to any wages, debts, earnings or salary, as if the state and the said wages and salary due and payable by it had been particularly designated therein. The provisions of this section shall be deemed to supersede any other provision of this chapter or of any general or special law inconsistent herewith. [Added by L. 1910, ch. 317.]

FIXING THE COMPENSATION OF EMPLOYEES OF STATE PRISONS.

PRISON LAW, CHAPTER 43 OF THE CONSOLIDATED LAWS.

§ 114. **Compensation of other officers.**—The superintendent of state prisons shall, from time to time, prescribe the compensation of the other officers of said prisons, but the compensations so fixed and prescribed for the following officers in each of such prisons shall not in any case exceed the rate of an annual salary, as follows: To the principal keeper, two thousand dollars; to the kitchen-keeper, store-keeper, hall-keeper and yard-keeper, each twelve hundred dollars; to the sergeant of the guard, nine hundred dollars; to the state detective at Sing Sing prison, eighteen hundred dollars. Officers designated as keepers prior to June first, nineteen hundred and four, shall be classified as guards. The several guards shall be paid only for services actually rendered, and their annual compensation shall be subject to pro rata deduction for time not served. The compensation of guards appointed after said date, shall be as follows: For the first year's service, six hundred and sixty dollars; for the second year's service, seven hundred and forty dollars; for the third year's service, eight hundred and twenty dollars; for the fourth year's service, and thereafter, nine hundred dollars. The annual compensation of guards in service on said date shall be for services thereafter rendered, as follows: To those serving their first year as prison officers, seven hundred and eighty dollars; to those serving their second year as prison officers, eight hundred and twenty dollars; to those serving their third year as prison officers, eight hundred and sixty dollars; to those who have served three or more years as prison officers, nine hundred dollars.

LABORERS AND MECHANICS IN STATE ARMORIES.

MILITARY LAW, CHAPTER 36 OF THE CONSOLIDATED LAWS.

§ 139. **Compensation of employees in armories.**—The persons appointed under the provisions of the two preceding sections shall receive compensation for the time actually and necessarily employed in their duties, to be fixed by the officer appointing such persons as follows: When employed in armories or arsenals located in cities, armorers, janitors and engineers not to exceed four dollars per day, unless the city has a population of less than fifty thousand, in which case such compensation shall not exceed three dollars per day, and not to exceed three dollars per day in armories or arsenals not located in cities; an armorer, janitor, engineer or laborer appointed by the commanding officer of an organization located in a city who under orders duly issued by such officer performs the whole or any part of his duties outside the limits of such city shall receive the compensation provided for an armorer, janitor, engineer or laborer employed in an armory

located in such city; laborers not to exceed two dollars per day, except in cities having a population of three hundred thousand or over, and in counties adjoining cities of the first class, not to exceed three dollars per day. An armorer employed in an arsenal or armory having two hundred thousand or more square feet of floor surface and occupied by a regiment may in the discretion of the officer appointing, receive additional compensation not to exceed five dollars per day. The chief engineer in an armory having over two hundred thousand square feet of floor surface occupied by a regiment and lighted by electricity produced by machinery operated within such armory, not to exceed five dollars per day. The compensation, as certified to by the officer appointing such persons, under the provisions of the two preceding sections, shall be paid semi-monthly upon the certificate of such officer, and shall be a county charge upon the county in which such armory or arsenal is situated; and shall be levied, collected and paid in the same manner as other county charges are levied, collected and paid. A commissioned officer in active service shall not be eligible for appointment to, and shall not hold the position of armorer, janitor, engineer or laborer in any armory or arsenal. The appointing officer shall grant to each employee a vacation of fourteen days per year with pay. [*As am'd by L. 1911, ch. 102.*]

REGISTRATION OF LABORERS FOR MUNICIPAL EMPLOYMENT.

THE CIVIL SERVICE LAW, CHAPTER 7 OF THE CONSOLIDATED LAWS.

§ 18. The labor class in cities.—The labor class in cities shall include unskilled laborers and such skilled laborers as are not included in the competitive class or the noncompetitive class. Vacancies in the labor class in cities shall be filled by appointment from lists of applicants registered by the municipal commissions. Preference in employment from such lists shall be given according to date of application. There shall be separate lists of applicants for different kinds of labor or employment, and the commissions may establish separate labor lists for various institutions and departments. Where the labor service of any department or institution extends to separate localities, the commissions may provide separate registration lists for each district or locality. The commissions shall require an applicant for registration for the labor service to furnish such evidence or pass such examination as they may deem proper with respect to his age, residence, physical condition, ability to labor, skill, capacity and experience in the trade or employment for which he applies.

Veterans of the Civil War, who, under the terms of the Constitution (Art. V, § 9) are entitled to preference in the civil service "without regard to their standing," are to be placed at the head of registration lists as though their application had been filed prior to those persons not entitled to preference (§ 21 of the Civil Service Law).

FIXING WAGES AND SALARIES OF EMPLOYEES OF THE STREET CLEANING DEPARTMENT, NEW YORK CITY.

THE REVISED CHARTER (LAWS OF 1901, CHAPTER 466).

§ 536. The members of the department of street cleaning shall be divided into two general classes, to be designated, respectively, the clerical force and the uniformed force. The clerical force shall consist of a chief clerk, medical examiners, not exceeding three in number, and such and so many clerks and

messengers as the commissioner of street cleaning shall deem necessary. The uniformed force shall be appointed by the commissioner of street cleaning, and shall consist of one general superintendent, one assistant superintendent, one superintendent of final disposition, one assistant superintendent of final disposition, district superintendents, not exceeding twenty-one in number; time collectors, not exceeding eight in number; section foremen, not exceeding one hundred and twenty-five in number; dump inspectors, not exceeding forty-three in number; assistant dump inspectors, not exceeding forty-three in number; sweepers, not exceeding thirty-one hundred in number; dump boardmen, not exceeding forty-three in number; drivers, not exceeding sixteen hundred in number; stable foremen, not exceeding twenty-one in number; assistant stable foremen, not exceeding twenty-one in number; hostlers, not exceeding one head hostler to each stable and additional hostlers not exceeding one for each ten horses; a master mechanic and such and so many mechanics and helpers as may be necessary. The commissioner of street cleaning shall have power and is hereby authorized to increase the said uniformed force, from time to time, by adding to the number of sweepers, drivers and hostlers provided the board of estimate and apportionment and the board of aldermen shall have previously made an appropriation for the purpose of permitting such increase. The annual salaries and compensations of the members of the uniformed force of the department of street cleaning shall not exceed the following: Of the general superintendent, three thousand dollars; of the assistant superintendent, two thousand five hundred dollars; of the master mechanic, one thousand eight hundred dollars; of the superintendent of final disposition, two thousand dollars; of the assistant superintendent of final disposition, one thousand five hundred dollars; of the district superintendents, one thousand eight hundred dollars each; of the time collectors, one thousand two hundred dollars each; of the section foremen, one thousand two hundred dollars each; of sweepers or drivers acting as assistants to the section or stable foremen, nine hundred dollars each; of the dump inspectors, one thousand two hundred dollars each; of the assistant dump inspectors, nine hundred dollars each; of the dump boardmen, seven hundred and twenty dollars each; of the sweepers, seven hundred and twenty dollars each; of the drivers, seven hundred and twenty dollars each; of the stable foremen, one thousand three hundred dollars each; of the assistant stable foremen, one thousand dollars each; of the hostlers, seven hundred and twenty dollars each. Hostlers may receive extra pay for Sundays if an appropriation therefor is made by the board of estimate and apportionment. The members of the department of street cleaning shall be employed at all such times and during such hours and upon such duties as the commissioner of street cleaning shall direct for the purpose of an effective performance of the work devolving upon the said department. In case of a snow fall or other emergency, the commissioner of street cleaning or the deputy commissioner may hire and employ temporarily such and so many men, carts and horses as shall be rendered necessary by such emergency, forthwith reporting such action with the full particulars thereof to the mayor, but no man, cart or horse, shall be so hired or employed for a longer period than three days, except that any person registered or eligible to appointment as a driver, or as a sweeper, may be temporarily employed at any time as an extra driver

or sweeper to fill the place of a driver or sweeper who is suspended or temporarily absent from duty from any cause. The rate of compensation for such extra drivers or sweepers shall be two dollars per day, and the driver or sweeper whose place is so filled shall not receive any compensation for the time during which he is so absent from duty or his place is so filled, unless such injury or illness was caused by service in the department. The services of any person employed, and of carts and horses hired pursuant to this section, shall be paid for in full and directly by the department of street cleaning, at such times as may be prescribed by such department; and they, and each of them, shall be employed and hired directly by the department of street cleaning and not through contractors or other persons, unless the commissioner himself shall determine that this requirement must for proper action in a particular instance be dispensed with. Nothing herein contained shall affect any existing contracts made with or by the department of street cleaning in regard to the cleaning of Broadway below Fourteenth street in said city or the renewal thereof, if deemed best by the commissioner of said department. Neither the commissioner of street cleaning, nor any deputy commissioner of street cleaning, nor any member of the uniformed force of the street cleaning department, shall be permitted to contribute any moneys, directly or indirectly, to any political fund, or intended to affect legislation for or on behalf of the street cleaning department or any member thereof.

RELIEF AND PENSION FUND FOR NEW YORK CITY STREET CLEANERS.
THE REVISED CHARTER (LAWS OF 1901, CHAPTER 466).

§ 548. There shall be a relief and pension fund of the department of street cleaning which shall be made up, administered and used for the benefit of the members of the clerical and uniformed forces of the department of street cleaning as defined by section five hundred and thirty-six of the charter, and the incumbents of such other positions in said department as have been created and not specified in section five hundred and thirty-six of the charter. [*Added by L. 1911, ch. 839.*]

§ 549. The relief and pension fund of the department of street cleaning of the city of New York shall consist of the following moneys and the interest and income thereof:

First. A sum of money equal to, but not greater than, three per centum of the weekly or monthly pay, salary or compensation of each such member of the department of street cleaning, which sum shall be deducted, weekly or monthly, as the case may be, by the comptroller from the pay, salary or compensation, of each and every such member of the department of street cleaning, and the said comptroller is hereby authorized, empowered and directed to deduct said sum of money as aforesaid, and to pay the same monthly to the treasurer and trustee of the relief and pension fund of the department of street cleaning.

Second. All money, pay, compensation or salary, or any part thereof, forfeited, deducted or withheld from any such member of the department of street cleaning on account of fines, suspensions or absence from any cause, loss of time, sickness or other disability, physical or mental, to be paid monthly by the comptroller to the treasurer and trustee of said pension fund, except in the case of a sweeper, driver, hostler, stableman or other

employee who may have been sick or absent from any cause, and whose position has been filled by an extra sweeper, driver, stableman or other temporary employee, to whom compensation has been paid.

Third. All moneys received for the privilege of scow trimming or assorting of refuse at the various dumps in the boroughs of Manhattan, Brooklyn or Bronx, or at any other place where refuse may be disposed of, excepting in so far as the provisions of any contract now in force between the city of New York and contractors give such privilege to the contractors. All contracts hereafter made shall stipulate that the proceeds from such trimming or assorting of refuse shall be paid by the comptroller to the trustee and treasurer of said pension fund.

Fourth. All moneys received from the sale of steam or house ashes, garbage and refuse, collected by the department of street cleaning, and any moneys that may be received for the disposal of such steam or house ashes, garbage or refuse.

Fifth. All proceeds of sales of condemned horses or other property of said department, excepting real property; and so much of the proceeds of sales of unharnessed trucks, carts, wagons and vehicles of any description, and of all boxes, barrels, bales or other merchandise, or other movable property, found in any public street or place and removed therefrom by the commissioner of street cleaning under any provision of law authorizing said commissioner to remove and to sell such incumbrances, as exceeds the necessary expense of the sales of such condemned property or unredeemed incumbrances and which is not under such provision of the law, payable to the lawful owner or owners of such incumbrances so sold, and all moneys collected for the release of merchandise, unharnessed vehicles or movable property removed as aforesaid.

Sixth. Any and all unexpended balances of amounts appropriated for the payment of salaries or compensation of such members of the department of street cleaning remaining unexpended after the allowance of all claims payable therefrom. And the comptroller is hereby authorized to pay over such unexpended balances to the treasurer and trustee of said pension fund at any time after the expiration of the year for which such amounts were appropriated, after allowing sufficient to satisfy all the claims payable therefrom as aforesaid.

Seventh. All gifts or bequests which may be made to said fund or the commissioner of street cleaning as treasurer and trustee of said fund. [*Added by L. 1911, ch. 839.*]

§ 550. The commissioner of street cleaning shall be the trustee and treasurer of said relief and pension fund. He shall, before entering upon his duties as treasurer and trustee thereof, deliver to the comptroller a bond in the penal sum of seventy-five thousand dollars, to be approved by the comptroller, conditioned for the faithful discharge and performance of his duties as such treasurer and trustee. Compensation shall be made to the commissioner of street cleaning for the expense of procuring sureties for said bond, to be paid out of said pension fund. Said treasurer and trustee shall have charge of and administer said fund. He shall receive all moneys applicable to said fund, and, from time to time, shall invest such moneys, or any part thereof, in any manner allowed by law for investments by savings banks, as he shall deem beneficial to said fund; and he is empowered to

make all necessary contracts and to conduct necessary and proper actions and proceedings in the premises, and to pay from said fund the relief or pensions granted in pursuance of this act. And he is authorized and empowered to establish, from time to time, such rules and regulations for the disposition and investment, preservation and administration of said pension fund as he may deem best. No payment whatever shall be allowed or made by said treasurer and trustee from said fund as reward, gratuity or compensation to any person for salary or service rendered to or for said treasurer and trustee, except payment of necessary legal expenses and compensation as aforesaid for the expenses of procuring sureties on said bond. The commissioner of street cleaning may employ the members of the clerical force in such clerical work as may be necessary for the care and administration of said fund as a part of their regular duties and without extra compensation. On or before the first day of February of each year the said treasurer and trustee shall make a verified report to the mayor containing a statement of the account of said fund under his control and of all receipts, investments and disbursements, on account of said fund, together with the name and residence of each beneficiary. There shall be an auditing committee consisting of three members of the department of street cleaning, to be appointed by the mayor. It shall be the duty of such auditing committee, on or before the first day of March in each year, to examine the condition of said relief and pension fund and to audit the accounts of said treasurer and trustee and to make report thereon to the mayor within thirty days thereafter. [*Added by L. 1911, ch. 839.*]

§ 551. The commissioner of street cleaning, as treasurer and trustee of said relief and pension fund, is hereby authorized and empowered to take and hold any and all gifts or bequests which may be made to such fund, and to transfer such gifts or bequests to his successor, together with all other moneys or property belonging to said fund. [*Added by L. 1911, ch. 839.*]

§ 552. The commissioner of street cleaning shall have power in his discretion to retire and dismiss from membership in his department a member of the department of street cleaning as hereinafter provided; and he shall grant relief or a pension to such member so retired and dismissed from membership, and to the widows and orphans of members of said department who may be entitled to receive such relief or pension, to be paid from said relief or pension fund, in monthly instalments, as follows:

First. To any such member who, at any time after the passage of this act, while in the actual performance of duty, and without fault or misconduct on the part of such member, shall have become permanently disabled, physically or mentally, so as to be unfit to perform the duties required of such member, provided that such unfitness for duty has been certified to by a majority of the medical examiners of said department, the sum of twenty-five dollars per month.

Second. To the widow of any member of the department of street cleaning who, after the passage of this act, shall have been killed while in the actual performance of his duty, or shall have died from the effects of any injury received while in the actual performance of such duty, the sum of not more than three hundred dollars per annum; and to the widow of any member of such force who shall hereafter die and who shall have been ten

years in the service in said department at the time of his death, or who shall have been retired on a pension, as hereinafter provided, if there shall be no child or children of such member under eighteen years of age, the sum of not more than two hundred dollars per annum, in the discretion of said treasurer and trustee; and if there be such child or children of such member under the age aforesaid, then such sum may be divided between such widow, child or children in such proportion and in such manner as the said treasurer and trustee may direct. The right of such widow to such pension shall cease and terminate at her death or remarriage; or if she shall have been guilty of conduct which in the opinion of said treasurer and trustee renders payment inexpedient.

Third. To any child or children under eighteen years of age of such member killed or dying as aforesaid, or dying after retirement leaving no widow, or if a widow, then after her death, a sum not exceeding two hundred dollars per annum to be paid as such treasurer and trustee shall direct until such child or children shall have attained the age of eighteen years or shall have married.

Fourth. To the widowed mother of any such member, who was the sole support of such mother, who shall die after the passage of this act, a sum not to exceed two hundred dollars per annum, to cease upon the death or remarriage of such widowed mother. [*Added by L. 1911, ch. 839.*]

§ 553. Any such member who has or shall have performed duty as such member for a period of ten years or upwards shall be relieved and dismissed from said force upon his or her own application, or by order of the commissioner, upon an examination by the medical examiners of said department, to be made at any time when so applied for or when so ordered, if a majority of such medical examiners shall certify that such member is permanently disabled, physically or mentally, so as to be unfit for duty; and such member so relieved and dismissed from said force shall be paid from said fund in monthly instalments during his or her lifetime a sum not less than one-half of the annual salary or compensation of such member when he or she was so retired; and any such member who shall have performed duty on said force for a period of twenty years or upward, whether continuous or rendered during different periods, and who has reached the age of sixty years, may, upon the application of such member in writing, be relieved and dismissed from said force and service, and shall be paid from said fund in monthly instalments during his or her lifetime a sum not less than one-half of the annual salary or compensation of such member when so retired; provided, however, that no such member shall be so retired or granted a pension while there are charges of official misconduct pending against him or her. Pensions granted under this section shall be for the natural life of the pensioner and shall not be revoked, repealed or diminished. [*Added by L. 1911, ch. 839.*]

§ 554. The commissioner of street cleaning, as such treasurer and trustee, is authorized and empowered to make and enforce all such rules, orders and regulations as may be necessary to carry out the provisions of this act relative to pensions and may employ members of the department for such purpose so far as may be required. [*Added by L. 1911, ch. 839.*]

§ 555. The moneys or other property of the relief and pension fund of the department of street cleaning and all pensions or relief moneys granted

and payable from said fund shall be, and the same are, exempt from levy and sale under execution, and from all processes or proceedings to enjoin payment, or to recover such moneys or property, by or on behalf of any creditor or other person having or asserting any claim against, or debt or liability of any person entitled to such pension or relief. [*Added by L. 1911, ch. 839.*]

§ 556. This act shall take effect October first, nineteen hundred and eleven, so far as it applies to the deduction by the comptroller of three per centum of the pay, salary or compensation of the members of the department of street cleaning, and to the collection and taking over by said treasurer and trustee of such other moneys as are provided by this act to be taken for such fund, and all such moneys shall be so taken and held for such purpose by said treasurer and trustee on and after said date. Provided, however, that no such deduction of such per centum shall be made by the comptroller from the pay, salary or compensation of any person who is or was a member of the department of street cleaning on or before September first, nineteen hundred and eleven, unless such member shall have given his or her consent in writing to the commissioner of street cleaning on or before that date that he or she agrees to abide by the provisions of this act and authorizes the comptroller of the city of New York to so deduct such per centum; and any such member who fails to give such written consent shall not be entitled to be or to become a beneficiary of said relief and pension fund; but such deduction of such per centum shall be made by the comptroller without such consent from the pay, salary or compensation of any person who shall become a member of the department of street cleaning after September first, nineteen hundred and eleven, and all such persons shall be entitled to or become beneficiaries of said relief and pension fund without such written consent to such deduction. [*Added by L. 1911, ch. 839.*]

§ 557. No relief or pension shall be paid to any person under the provisions of this act, and no person shall be entitled to receive any of the benefits provided for in this act prior to January first, nineteen hundred and thirteen, excepting that relief and pensions granted under the provisions of this act shall be payable to and through members of the department who shall die or become disabled on and after September first, nineteen hundred and eleven, but the payment of such relief or pension shall be postponed until January first, nineteen hundred and thirteen, on which date the provisions of this act providing for the payment of relief or pensions shall take effect. [*Added by L. 1911, ch. 839.*]

PROHIBITING THE SUB-LETTING OF PUBLIC CONTRACTS.

GENERAL MUNICIPAL LAW, CHAPTER 24 OF THE CONSOLIDATED LAWS.

(See also § 43 of State Finance Law, ch. 56 of the Consolidated Laws.)

§ 86. Contractors not to assign contracts with municipality without its consent.—A clause shall be inserted in all specifications or contracts hereafter made or awarded by any municipal corporation, or any public department or official thereof, prohibiting any contractor, to whom any contract shall be let, granted or awarded, as required by law, from assigning, transferring, conveying, subletting or otherwise disposing of the same, or of his right, title or interest therein, or his power to execute such contract to any

other person, company or corporation, without the previous consent in writing of the department or official awarding the same.

If any contractor, to whom any contract is hereafter let, granted or awarded, as required by law, by any municipal corporation in the state, or by any public department or official thereof, shall, without the previous written consent specified in the first paragraph of this section, assign, transfer, convey, sublet, or otherwise dispose of the same, or his right, title or interest therein, or his power to execute such contract, to any other person, company or other corporation, the municipal corporation, public department, or official as the case may be, which let, made, granted or awarded said contract shall revoke and annul such contract, and the municipal corporation, public department or officer, as the case may be, shall be relieved and discharged from any and all liability and obligations growing out of said contract to such contractor, and to the person, company, or corporation to whom he shall assign, transfer, convey, sublet or otherwise dispose of the same, and said contractor, and his assignee, transferee, or sub-lessee, shall forfeit and lose all moneys, theretofore earned under said contract except so much as may be required to pay his employees; provided that nothing herein contained shall be construed to hinder, prevent or affect an assignment by such contractor for the benefit of his creditors, made pursuant to the statutes of this state.

**SECURING THE PAYMENT OF WAGES TO EMPLOYEES OF CONTRACTORS
UPON CANALS.**

CANAL LAW, CHAPTER 5 OF THE CONSOLIDATED LAWS.

§ 145. Security for payment of laborers.—The superintendent of public works or assistant superintendent having charge, shall also require and take from the contractor, a bond with at least two good and sufficient sureties, conditioned that such contractor will well and truly pay in full, at least once in each month, all laborers employed by him on the work specified in such contract, which shall be duly acknowledged and filed in the office of the clerk of the county wherein such contract or work is to be performed, and if partly in two or more counties, such bond or a certified copy thereof shall be filed in the clerk's office of each county.

Actions may be brought for a breach of such bond by any laborer not paid in accordance with its terms, and the commencement or maintenance of an action by one or more laborers thereon shall not be a bar to the commencement and maintenance of other actions thereon by other laborers. No action shall be maintained against the sureties unless brought within thirty days after the completion of the labor the payment of which is secured by the bond.

Laborers are those who perform labor on canals and do not include sub-contractors. (Swift v. Kingsley, 24 Barb. 541; and see McCluskey v. Cromwell, 11 N. Y. 593.)

**AUTHORIZING THE EIGHT HOUR DAY UPON RESERVOIR CONSTRUCTION IN
NEW YORK CITY.**

LAWS OF 1902, CHAPTER 588.

AN ACT relative to the powers of the aqueduct commissioners, provided for and holding office under and pursuant to the provisions of chapter four hundred and ninety of the laws of eighteen hundred and eighty-three, and its amendments.

Section 1. The aqueduct commissioners, provided for and holding office under and pursuant to the provisions of an act of the legislature of the state of New York, entitled "An act to provide new reservoirs, dams and a new aqueduct with the appurtenances thereto, for the purpose of supplying the city of New York with an increased supply of pure and wholesome water," said act being chapter four hundred and ninety of the laws of eighteen hundred and eighty-three, and its amendments, are hereby authorized and empowered to agree with any person, firm or corporation with whom they have contracted or may hereafter contract, upon such terms and conditions as shall in their judgment and discretion, be for the best interests of the city of New York, that eight hours shall constitute a day's work for all laborers employed by said person, firm or corporation in the performance of his or its contract and that no laborer employed in the performance of any such contract shall be required, permitted or allowed to work more than eight hours. No agreement made under the provisions of this act shall be valid or binding until the same has been approved by the board of estimate and apportionment of the city of New York.

PRISON LABOR.*

OCCUPATION AND EMPLOYMENT OF CONVICTS.

CONSTITUTION OF STATE OF NEW YORK, ARTICLE III.

Section 29. The Legislature shall by law provide for the occupation and employment of prisoners sentenced to the several State prisons, penitentiaries, jails and reformatories in the State; and on and after the first day of January, in the year one thousand eight hundred and ninety-seven, no person in any such prison, penitentiary, jail or reformatory, shall be required or allowed to work while under sentence thereto, at any trade, industry or occupation, wherein or whereby his work or the product or profit of his work, shall be farmed out, contracted, given or sold to any person, firm, association or corporation. This section shall not be construed to prevent the legislature from providing that convicts may work for, and that the products of their labor may be disposed of to, the State or any political division thereof, or for or to any public institution owned or managed and controlled by the State, or any political division thereof.

PRISON LAW, CHAPTER 43 OF THE CONSOLIDATED LAWS.

ARTICLE 7.

Prison Labor.

Section 170. Contracts prohibited.

171. Prisoners to be employed; products of labor of prisoners.
172. Labor of prisoners of first grade, how directed.
173. Labor of prisoners of second grade, how directed.
174. Labor of prisoners of third grade, how directed.
175. Prisoners employed for use of state, and divisions thereof.
176. No printing or photo-engraving to be done by prisoners for use of state.
177. Labor of prisoners in prisons, reformatories and penitentiaries.
178. Labor of prisoners in certain institutions.
179. Employment of convicts on public highways.
180. Persons interfering with convicts employed on highways guilty of misdemeanor.
181. Classification of industries; report as to industries.
182. Articles manufactured to be furnished to the state or division thereof.
183. Estimates of articles required to be furnished commission of prisons by officers.
184. Board of classification; prices to be fixed.
185. Earnings of prisoners.
186. Disposition of fines.
187. Disposition of moneys paid to prisoner for his labor.
188. Monthly statement of receipts and expenditures for prison industries.
189. Statement of machinery and materials required.
190. Machinery and materials for prison industries, how purchased.
191. Disposition of machinery on discontinuance of industry.
192. Purchases to be included in estimates.
193. Deposits by agent and warden in banks.
194. Violations of prison labor regulations.

§ 170. Contracts prohibited.—The superintendent of state prisons shall not, nor shall any other authority whatsoever, make any contract by which the

* See also article 13 of the Labor Law, *ante*.

labor or time of any prisoner in any state prison, reformatory, penitentiary or jail in this state, or the product or profit of his work, shall be contracted, let, farmed out, given or sold to any person, firm, association or corporation; except that the convicts in said penal institutions may work for, and the products of their labor may be disposed of to, the state or any political division thereof or for or to any public institution owned or managed and controlled by the state, or any political division thereof.

§ 171. **Prisoners to be employed; products of labor of prisoners.**—The superintendent of state prisons, the superintendents, managers and officials of all reformatories and penitentiaries in the state, shall, so far as practicable, cause all the prisoners in said institutions, who are physically capable thereof, to be employed at hard labor, for not to exceed eight hours of each day, other than Sundays and public holidays, but such hard labor shall be either for the purpose of production of supplies for said institutions, or for the state, or any political division thereof, or for any public institution owned or managed and controlled by the state, or any political division thereof; or for the purpose of industrial training and instruction, or partly for one, and partly for the other of such purposes.

§ 172. **Labor of prisoners of first grade, how directed.**—The labor of the prisoners of the first grade in each of said prisons, reformatories and penitentiaries, shall be directed with reference to fitting the prisoner to maintain himself by honest industry after his discharge from imprisonment, as the primary or sole object of such labor, and such prisoners of the first grade may be so employed at hard labor for industrial training and instruction solely, even though no useful or salable products result from their labor, but only in case such industrial training or instruction can be more effectively given in such manner. Otherwise, and so far as is consistent with the primary object of the labor of prisoners of the first grade as aforesaid, the labor of such prisoners shall be so directed as to produce the greatest amount of useful products, articles and supplies needed and used in the said institutions, and in the buildings and offices of the state, or those of any political division thereof, or in any public institution owned or managed and controlled by the state or any political division thereof, or said labor may be for the state, or any political division thereof.

§ 173. **Labor of prisoners of second grade, how directed.**—The labor of prisoners of the second grade in said prisons, reformatories and penitentiaries shall be directed primarily to labor for the state or any political division thereof, or to the production and manufacture of useful articles and supplies for said institutions, or for any public institution owned or managed and controlled by the state, or any political division thereof.

§ 174. **Labor of prisoners of third grade, how directed.**—The labor of prisoners of the third grade shall be directed to such exercise as shall tend to the preservation of health, or they shall be employed in labor for the state, or a political division thereof, or in the manufacture of such useful articles and supplies as are needed and used in the said institutions, and in the public institutions owned or managed and controlled by the state, or any political division thereof.

§ 175. **Prisoners employed for use of state, and divisions thereof.**—All convicts sentenced to state prisons, reformatories and penitentiaries in the state,

shall be employed for the state, or a political division thereof, or in productive industries for the benefit of the state, or the political divisions thereof, or for the use of public institutions owned or managed and controlled by the state, or the political divisions thereof, which shall be under rules and regulations for the distribution and diversification thereof, to be established by the state commission of prisons.

§ 176. **No printing or photo-engraving to be done by prisoners for use of state.**—No printing or photo-engraving shall be done in any state prison, penitentiary or reformatory for the state or any political division thereof, or for any public institution owned or managed and controlled by the state or any such political division, except such printing as may be required for or used in the penal and state charitable institutions, and the reports of the state commission of prisons and the superintendent of prisons, and all printing required in their offices.

§ 177. **Labor of prisoners in prisons, reformatories and penitentiaries.**—The labor of the convicts in the state prisons and reformatories in the state, after the necessary labor for and manufacture of all needed supplies, for said institutions, shall be primarily devoted to the state and the public buildings and institutions thereof, and the manufacture of supplies for the state, and public institutions thereof, and secondly to the political divisions of the state, and public institutions thereof; and the labor of the convicts in the penitentiaries, after the necessary labor for and manufacture of all needed supplies for the same, shall be primarily devoted to the counties, respectively, in which said penitentiaries are located, and the towns, cities and villages therein, and to the manufacture of supplies for the public institutions of the counties, or the political divisions thereof, and secondly to the state and the public institutions thereof.

§ 178. **Labor of prisoners in certain institutions.**—The state board of managers of reformatories, and the managing authorities of all the penitentiaries or other penal institutions in this state, are hereby authorized and directed to conduct the labor of prisoners therein, respectively, in like manner and under like restrictions, as labor is authorized by sections one hundred and seventy and one hundred and seventy-one of this article, to be conducted in state prisons.

§ 179. **Employment of convicts on public highways.**—The superintendent of state prisons may employ or cause to be employed, not to exceed three hundred of the convicts confined in each state prison in the improvement of the public highways, within a radius of thirty miles from such prison and outside of an incorporated city or village.

The agent and warden of each prison may make such rules as he may deem necessary for the proper care of such prisoners while so employed, subject to the approval of the superintendent of state prisons.

The agent and warden of each prison may designate, subject to the approval of the superintendent of state prisons, the highways and portions thereof upon which such labor shall be employed; and such portions so designated and approved shall be under his control during the time such improvements are in progress, and the state engineer and surveyor shall fix the grade and width of the roadway of such highways and direct the manner in which the work shall be done.

The superintendent of state prisons is hereby authorized to purchase any machinery, tools and materials necessary in such employment.

§ 182. **Articles manufactured to be furnished to the state or division thereof.**—The superintendent of state prisons, and the superintendents of reformatories and penitentiaries, respectively, are authorized and directed to cause to be manufactured by the convicts in the prisons, reformatories and penitentiaries, such articles as are needed and used therein, and also such as are required by the state or political divisions thereof, and in the buildings, offices and public institutions owned or managed and controlled by the state, including articles and materials to be used in the erection of the buildings. All such articles manufactured in the state prisons, reformatories and penitentiaries, and not required for use therein, shall be of the styles, patterns, designs and qualities fixed by the board of classification, and may be furnished to the state, or to any political division thereof, or for or to any public institution owned or managed and controlled by the state, or any political division thereof, at and for such prices as shall be fixed and determined as hereinafter provided, upon the requisitions of the proper officials, trustees or managers thereof. No article so manufactured shall be purchased from any other source, for the state or public institutions of the state, or the political divisions thereof, unless said state commission of prisons shall certify that the same can not be furnished upon such requisition, and no claim therefor shall be audited or paid without such certificate.

§ 183. **Estimates of articles required to be furnished commission of prisons by officers.**—On or before October first in each year, the proper officials of the state, and the political divisions thereof, and of the institutions of the state, or political divisions thereof, shall report to the said commission of prisons estimates for the ensuing year of the amount of supplies of different kinds required to be purchased by them that can be furnished by the penal institutions in the state. The said commission is authorized to make regulations for said reports, to provide for the manner in which requisitions shall be made for supplies, and to provide for the proper diversification of the industries in said penal institutions.

§ 184. **Board of classification; prices to be fixed.**—The fiscal supervisor of state charities, the state commission of prisons, and the superintendent of state prisons and the lunacy commission are hereby constituted a board to be known as the board of classification. Said board shall fix and determine the prices at which all labor performed, and all articles manufactured in the charitable institutions managed and controlled by the state and in the penal institutions in this state, and furnished to the state, or the political divisions thereof, or to the public institutions thereof, shall be furnished, which prices shall be uniform to all, except that the prices for goods or labor furnished by the penitentiaries to or for the county in which they are located, or the political divisions thereof, shall be fixed by the board of supervisors of such counties, except New York and Kings counties, in which the prices shall be fixed by the commissioners of charities and correction, respectively. The prices shall be as near the usual market price for such labor and supplies as possible. The state commission of prisons shall devise and furnish to all such institutions a proper form for such requisition, and the comptroller shall devise and furnish a proper system of accounts

to be kept for all such transactions. It shall also be the duty of the board of classification to classify the buildings, offices and institutions owned or managed and controlled by the state, and it shall fix and determine the styles, patterns, designs and qualities of the articles to be manufactured for such buildings, offices and public institutions, in the charitable and penal institutions in this state. So far as practicable, all supplies used in such buildings, offices and public institutions shall be uniform for each class, and of the styles, patterns, designs and qualities that can be manufactured in the penal institutions in this state.

§ 185. **Earnings of prisoners.**—Every prisoner confined in the state prisons, reformatories and penitentiaries, who shall become entitled to a diminution of his term of sentence by good conduct, may, in the discretion of the agent and warden, or of the superintendent of the reformatory, or superintendent of the penitentiary, receive compensation from the earnings of the prison or reformatory or penitentiary in which he is confined, such compensation to be graded by the agent and warden of the prison for the prisoners therein, and the superintendent of the reformatory and penitentiary for the prisoners therein, for the time such prisoner may work, but in no case shall the compensation allowed to such convicts exceed in amount ten per centum of the earnings of the prison or reformatory or penitentiary in which they are confined. The difference in the rate of compensation shall be based both on the pecuniary value of the work performed, and also on the willingness, industry and good conduct of such prisoner; provided, that whenever any prisoner shall forfeit his good time for misconduct or violation of the rules or regulations of the prison, reformatory or penitentiary, he shall forfeit out of the compensation allowed under this section fifty cents for each day of good time so forfeited; and provided, that prisoners serving life sentences shall be entitled to the benefit of this section when their conduct is such as would entitle other prisoners to a diminution of sentence, subject to forfeiture of good time for misconduct as herein provided. The agent and warden of each prison, or the superintendent of the reformatory or superintendent of the penitentiary may institute and maintain a uniform system of fines, to be imposed at his discretion, in place of his other penalties and punishments, to be deducted from such compensation standing to the credit of any prisoner, for misconduct by such prisoner.

EMPLOYMENT OF PRISONERS IN COUNTY JAILS.

THE COUNTY LAW, CHAPTER 16 OF THE CONSOLIDATED LAWS.

§ 93. **Food and labor.**—Prisoners detained for trial, and those under sentence, shall be provided with a sufficient quantity of plain but wholesome food, at the expense of the county; but prisoners detained for trial may, at their own expense, and under the direction of the keeper, be supplied with any other proper articles of food. Such keeper shall cause each prisoner committed to his jail for imprisonment under sentence, to be constantly employed at hard labor when practicable, during every day, except Sunday, and the board of supervisors of the county, or judge of the county, may prescribe the kind of labor at which such prisoner shall be employed; and the keeper shall account, at least annually, with the board of supervisors of the county, for the proceeds of such labor. Such keeper may, with the consent of the

board of supervisors of the county, or the county judge, from time to time, cause such of the convicts under his charge as are capable of hard labor, to be employed outside of the jail in the same, or in an adjoining county, upon such terms as may be agreed upon between the keepers and the officers, or persons, under whose direction such convicts shall be placed, subject to such regulations as the board or judge may prescribe; and the board of supervisors of the several counties are authorized to employ convicts under sentence to confinement in the county jails, in building and repairing penal institutions of the county and in building and repairing the highways in their respective counties or in preparing the materials for such highways for sale to and for the use of such counties or towns, villages, and cities therein; and to make rules and regulations for their employment; and the said board of supervisors are hereby authorized to cause money to be raised by taxation for the purpose of furnishing materials and carrying this provision into effect; and the courts of this State are hereby authorized to sentence convicts committed to detention in the county jails to such hard labor as may be provided for them by the boards of supervisors.

EMPLOYMENT OF PRISONERS IN NEW YORK CITY PENAL INSTITUTIONS.

LAWS OF 1901, CHAPTER 466 (THE NEW YORK CITY CHARTER).

§ 700. Employment of inmates; articles manufactured; cultivation of lands.— Every inmate of an institution under the charge of the commissioner, whose age and health will permit, shall be employed in quarrying or cutting stone, or in cultivating land under the control of the commissioner, or in manufacturing such articles as may be required for ordinary use in the institutions under the control of the commissioner, or for the use of any department of The City of New York, or in preparing and building sea walls upon islands or other places belonging to The City of New York upon which public institutions now are or may hereafter be erected, or in public works carried on by any department of the city, or at such mechanical or other labor as shall be found from experience to be suited to the capacity of the individual. The articles raised or manufactured by such labor shall be subject to the order of and shall be placed under the control of the commissioner, and shall be utilized in the institutions under his charge or in some other department of the city. All the lands under the jurisdiction of the commissioner not otherwise occupied or utilized, and which are capable of cultivation shall in the discretion of the commissioner be used for agricultural purposes.

§ 701. Detail of inmates to work in other departments.— At the request of any of the heads of the administrative departments of The City of New York (who are hereby empowered to make such request) the commissioner of correction may detail and designate any inmate or inmates of any of the institutions in the department of correction to perform work, labor and services in and upon the grounds and building or in and upon any public work or improvement under the charge of such other department. And such inmates when so employed shall at all times be under the personal oversight and direction of a keeper or keepers from the department of correction, but no inmate of any correctional institution shall be employed in any ward of any hospital except hospitals in penal institutions,

while such ward is being used for hospital purposes. The provisions of this act or of law requiring advertisement for bids or proposals, or the awarding of contracts, for work to be done or supplies to be furnished for any of said departments shall not be applicable to public work which may be done or to the supplies which may be furnished under the provisions of the prison law.

§ 702. Hours of labor; discipline.—The hours of labor required of any inmate of any institution under the charge of the commissioner shall be fixed by the commissioner. * * * * *

AGRICULTURAL LABOR.

THE AGRICULTURAL LAW, CHAPTER 9 OF THE CONSOLIDATED LAWS.

ARTICLE 12.

Agricultural Statistics.

Section 280. Collection and dissemination of statistics.

281. Information to be furnished by supervisors.

§ 280. Collection and dissemination of statistics.—The commissioner of agriculture may collect and disseminate such information relative to agriculture, and agricultural labor within the state, as he may deem wise for the purpose of promoting agricultural production within this state.

§ 281. Information to be furnished by supervisors.—Supervisors of the different towns and wards in this state shall furnish to the commissioner of agriculture upon request from him, upon blanks to be furnished by the said commissioner, such information as may be in their possession or may be obtained by them relative to agriculture, agricultural production and agricultural labor within their respective towns or wards. Such information shall be furnished to said commissioner within thirty days from the time it is asked for. The expense incurred by the several supervisors in furnishing such information shall be a town charge to be paid in the manner now provided by law for the payment of services and disbursements by such supervisor.

RAILWAY LABOR.

[See also DUTIES AND LIABILITIES OF EMPLOYERS, ETC., and sections 6, 7 and 8 of the Labor Law.]

THE SAFETY OF RAILWAY EMPLOYEES.

THE RAILROAD LAW, CHAPTER 49 OF THE CONSOLIDATED LAWS.

§ 71. **Duties imposed.**—It shall be the duty of every railroad corporation operating its road by steam:

1. To lay, in the construction of new and in the renewal of existing switches, upon freight or passenger main line tracks, switches on the principle of either the so-called Tyler, Wharton, Lorenz, or split-point switch, or some other kind of safety switch, which shall prevent the derailment of a train, when such switch is misplaced or a switch interlocked with distant signals.

2. To erect and thereafter maintain such suitable warning signals at every road, bridge, or structure which crosses the railroad above the tracks, where such warning signals may be necessary, for the protection of employees on top of cars from injury.

3. To use upon every new freight car built or purchased for use, couplers which can be coupled and uncoupled automatically, without the necessity of having a person guide the link, lift the pin by hand, or go between the ends of the cars.

4. To attach to every car used for passenger transportation an automatic air-brake or other form of safety-power brake, applied from the locomotive, excepting cars attached to freight trains, the schedule rate of speed of which does not exceed twenty miles an hour.

* * * * *

Every corporation, person or persons, operating such railroad, and violating any of the provisions of this section, except subdivision six, shall be liable to a penalty of one hundred dollars for each offense, and the further penalty of ten dollars for each day that it shall omit or neglect to comply with any of such provisions. For every violation of the provisions of the sixth subdivision of this section every such corporation shall be liable to a penalty of twenty-five dollars for each offense.

§ 72. **Inspection of locomotive boilers.**—It shall be the duty of every railroad corporation operated by steam power, within this state, and of the directors, managers or superintendents of such railroad to cause thorough inspections to be made of the boilers and their appurtenances of all the steam locomotives which shall be used by such corporation or corporations, on said railroads. Said inspections shall be made, at least every three months under the direction and superintendence of said corporations, or the directors, managers or superintendents thereof, by persons of suitable qualifications and attainments to perform the services required of inspectors of boilers, and who from their knowledge of the construction and use of boilers and the appurtenances therewith connected, are able to form a

reliable opinion of the strength, form, workmanship and suitability of boilers, to be employed without hazard of life, from imperfections in material, workmanship or arrangement of any part of such boiler and appurtenances. All such boilers so used shall comply with the following requirements: The boilers must be made of good and suitable materials; the openings for the passage of water and steam respectively, and all pipes and tubes exposed to heat shall be of proper dimensions; the safety valves, fusible plugs, low water glass * indicator gauge cocks and steam gauges, shall be of such construction, condition and arrangement that the same may be safely employed in the active service of the railroad corporation without peril to life; and each inspector shall satisfy himself by thorough examination that said requirements have been fully complied with. No boiler, nor any connection therewith shall be approved which is unsafe in its form, or dangerous from defects, workmanship or other cause. The person or persons who shall make the said inspections if he or they approve of the boiler or boilers and the appurtenances throughout, shall make and subscribe his or their name to a written or printed certificate which shall contain the number of each boiler inspected, the date of its inspection, the condition of the boiler inspected, and such details as may be required by the forms and regulations which shall be prescribed by the public service commission. Every certificate shall be verified by the oath of the inspector, and he shall cause such certificate or certificates to be filed in the office of the public service commission, within ten days after each inspection shall have been made, and also a copy thereof with the chief operating officer or employee of such railroad having charge of the operation of such locomotive boiler; a copy shall also be placed by such officer or employee in a conspicuous place in the cab connected with the locomotive boiler inspected, and there kept framed under glass. The public service commission shall have power, from time to time, to formulate rules and regulations for the inspection and testing of boilers as aforesaid, and may require the removal of incompetent inspectors of boilers under the provisions of this section. Copies of such rules and regulations shall be mailed to every corporation operating a railroad by steam in this state. If it shall be ascertained by such inspection and test or otherwise, that any locomotive boiler is unsafe for use, the same shall not again be used until it shall be repaired, and made safe, so as to comply with the requirements of this section. Every corporation, director, manager or superintendent operating such railroad and violating any of the provisions of this section shall be liable to a penalty, to be paid to the people of the state of New York, of one hundred dollars for each offense, and the further penalty of one hundred dollars for each day it or he shall omit or neglect to comply with said provisions, and the making or filing of a false certificate shall be a misdemeanor, and every inspector who wilfully certifies falsely touching any steam boiler, or any appurtenance thereto belonging, or any matter or thing contained or required to be contained in any certificate, signed and sworn to by him, shall be guilty of a misdemeanor. Any person, upon application to the secretary of said commission and on the payment of such reasonable fee as said com-

* So in original.

mission may by rule fix, shall be furnished with a copy of any such certificate. The public service commission shall enforce the provisions of this section as to penalties.

§ 73. **State inspector of locomotive boilers.**—The office of state inspector of locomotive boilers is continued. Said inspector shall be appointed by the public service commissions and shall receive a compensation to be fixed by the commission, not exceeding three thousand dollars per year. He shall, under the direction of the commission, inspect boilers or locomotives used by railroad corporations operating steam railroads within the state, and may cause the same to be tested by hydrostatic test and shall perform such other duties in connection with the inspection and test of locomotive boilers as the commission shall direct. But this section shall not relieve any railroad corporation from the duties imposed by the preceding section.

§ 74. **Care of steam locomotives; steam and water cocks; penalty.**—It shall be the duty of every corporation operating a steam railroad, within this state, and of its directors, managers or superintendents, to cause the boiler of every locomotive used on such railroad to be washed out as often as once every thirty days, and to equip each boiler with and maintain thereon at all times, a water glass, showing the height of water in the boiler, having two valves or shut-off cocks, one at each end of such glass, which valves or shut-off cocks shall be so constructed that they can be easily opened and closed by hand; also to cause such valves or shut-off cocks and all gauge cocks or try-cocks attached to the boiler to be removed and cleaned whenever the boiler is washed out pursuant to the foregoing requirements of this section; also to keep all steam valves, cocks and joints, studs, bolts and seams in such repair that they will not at any time emit steam in front of the engineer, so as to obscure his vision. No locomotive shall hereafter be driven in this state unless the same is equipped and cared for in conformity with the provisions of this section; but nothing herein contained shall be construed to excuse the observance of any other requirement imposed by this chapter upon railroad corporations, their directors, officers, managers and superintendents. Every corporation, person or persons operating a steam railroad and violating any of the provisions of this section, shall be liable to a penalty of one hundred dollars for each offense, and the further penalty of ten dollars for each day that such violation shall continue. The public service commission shall enforce the provisions of this section.

§ 75. **Public service commission may approve other safeguards.**—The public service commission may, on the application of any railroad corporation, authorize it to use any other safeguard or device approved by the commission, in place of any safeguard or device hereinbefore required by this article, which shall thereafter be used in lieu thereof, and the same penalties for neglect or refusal to use the same shall be incurred and imposed as for a failure to use the safeguard or device hereinbefore required, in lieu of which the same is to be used.

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§ 77. **Equipment of engines.**—It shall be unlawful for any railroad company to use within the state on its line or lines any locomotive engine not equipped with a power driving wheel brake and appliances for operating the train brake system.

§ 78. Coal jimmies.—The use of cars known and designated as “coal jimmies” in any form and the use of any car as a caboose unless it shall have a suitable and safe platform at each end thereof, and the usual railing for the protection of persons using such platform, shall be unlawful within the state, except upon any railroad whose main line is less than fifteen miles in length and whose average grade exceeds two hundred feet to the mile. This section shall not be construed to authorize the interchange of such “coal jimmies” with, and the use thereof upon, railroads of more than fifteen miles in length or whose average grade is less than two hundred feet to the mile.

§ 79. Air-brakes.—It shall be unlawful for any railroad or other company to haul or permit to be hauled or used on its line or lines within this state any freight train that has not a sufficient number of cars in it so equipped with continuous power or air-brakes that the engineer on the locomotive drawing such train can control its speed without requiring brakemen to use the common hand brake for that purpose.

§ 80. Couplers.—It shall be unlawful for any railroad or other company to haul, or permit to be hauled or used, on its line or lines within the state, any freight car not equipped with couplers of the master car builders’ type, and coupling automatically by impact, and which can be uncoupled, except in cases of accident, without the necessity of men going between the ends of the cars.

§ 81. Violation of four preceding sections.—Any railroad or other company hauling or permitting to be hauled on its line or lines any train in violation of any of the provisions of the preceding four sections shall be liable to a penalty of one hundred dollars for each and every violation, to be recovered in an action to be brought by the public service commission in the name of the people and in the judicial district wherein the principal office of the company within the state is located.

PENAL LAW, CHAPTER 40 OF THE CONSOLIDATED LAWS.

§ 1988. Guard posts; automatic couplers.—All corporations and persons other than employees, operating any steam railroad in this state:

1. Failing to cause guard posts to be placed in prolongation of the line of bridge trusses upon such railroad, so that in case of derailment, the posts and not the trusses shall receive the blow of the derailed locomotive or car; or,
2. Failing to equip all of their own freight cars, run and used in freight or other trains on such railroad, with automatic self-couplers, or running or operating on such railroad any freight car belonging to any such person or corporation, without having the same equipped, except in case of accident or other emergency, with automatic self-couplers, and except within the extended time allowed by the public service commission, in pursuance of law, for equipping such car with such couplers, is guilty of a misdemeanor, punishable by a fine of five hundred dollars for each offense.

PUBLIC SERVICE COMMISSIONS LAW, CHAPTER 48 OF THE CONSOLIDATED LAWS.

§ 47. Investigation of accidents.—Each commission shall investigate the cause of all accidents on any railroad or street railroad within its district which result in loss of life or injury to persons or property, and which in its judgment shall require investigation. Every common carrier, railroad corporation and street railroad corporation is hereby required to give imme-

date notice to the commission of every accident happening upon any line of railroad or street railroad owned, operated, controlled or leased by it, within the territory over which such commission has jurisdiction in such manner as the commission may direct. Such notice shall not be admitted as evidence or used for any purpose against such common carrier, railroad corporation or street railroad corporation giving such notice in any suit or action for damages growing out of any matter mentioned in said notice.

See also § 66 authorizing the Commissions to order improvements necessary to protect persons employed in the manufacture and distribution of gas or electricity.

ENCLOSURE OF STREET CAR PLATFORMS.

THE RAILROAD LAW, CHAPTER 49 OF THE CONSOLIDATED LAWS.

§ 194. **Protection of employees.**—Every corporation operating a street surface railroad in this state, except such as operate a railroad or railroads either in the borough of Manhattan or Brooklyn, in the city of New York, shall cause the front and rear platforms of every passenger car propelled by electricity, cable or compressed air, operated on any division of such railroad which extends in or between towns or outside of city limits, during the months of December, January, February and March, except cars attached to the rear of other cars, to be inclosed from the fronts of the platforms to the fronts of the hoods, so as to afford protection to any person stationed by such corporation on such platforms to perform duties in connection with the operation of such cars. Every corporation or person using and operating a car in violation of this section shall be liable to a penalty of twenty-five dollars per day for each car so used and operated, to be collected in an action brought by the public service commission and to be paid to the treasurer of the state of New York, or in a suit by the attorney of the municipality in which the violation of the provisions of this section occurs, to be paid into the treasury of such municipality.

§ 195. **Platforms on new cars, how constructed.**—All street surface railroad passenger cars purchased, built or rebuilt after the first day of December, nineteen hundred and four, and operated in the state of New York on and after said date, except those owned by any company operating either in the borough of Manhattan or Brooklyn, in the city of New York, shall be constructed in accordance with the provisions of the preceding section.

§ 196. **Protection to employees in the counties of Albany and Rensselaer.**—Every corporation operating a street surface railroad in the counties of Albany and Rensselaer shall cause the front and rear platforms of every car propelled by electricity, cable or compressed air, during the months of December, January, February and March, except cars attached to the rear of other cars, to be inclosed from the front and at least one side of the platform to the hood, so as to afford protection to any person stationed by such corporation on such platforms to perform duties in connection with the operation of such cars. Platforms on cars on such street surface railroads used more than one mile outside the limits of a city shall be completely inclosed from platform to hood. Every corporation using and operating a car in violation of this section shall be liable to a penalty of twenty-five dollars per day for each car so used and operated, to be collected by the people to the use of the poor of the county in which such

corporation has its principal office, in an action brought by the public service commission or the district attorney of such county. The supreme court may, on the application of a citizen, direct the district attorney to bring such action.

§ 197. Protection of employees in the counties of Kings and Queens.—Every corporation operating a street surface railroad in the counties of Kings or Queens, shall cause the front and rear platforms of every passenger car propelled by electricity, cable or compressed air, operated on any division of such railroad during the months of December, January, February and March, except cars attached to the rear of other cars, to be inclosed from the fronts of the platforms to the fronts of the hoods so as to afford protection to any person stationed by such corporation on such platforms to perform duties connected with the operation of such cars. Every corporation or person using and operating a car in violation of this section shall be liable to a penalty of twenty-five dollars per day for each car used and operated, to be collected in an action brought by the public service commission and to be paid to the treasurer of the city of New York, or in a suit by the district attorney of the counties of Kings or Queens to be paid into the treasury of the city of New York.

QUALIFICATIONS OF ENGINEERS AND TELEGRAPHERS.

PENAL LAW, CHAPTER 40 OF THE CONSOLIDATED LAWS.

§ 1982. Person unable to read not to act or be employed as engineer.—Any person unable to read the time-tables of a railroad and ordinary handwriting, who acts as an engineer or runs a locomotive or train on any railroad in this state; or any person who, in his own behalf, or in the behalf of any other person or corporation, knowingly employs a person so unable to read to act as such engineer or to run any such locomotive; or who employs a person as a telegraph operator who is under the age of eighteen years, or who has less than one year's experience in telegraphing, to receive or transmit a telegraphic message or train order for the movement of trains, is guilty of a misdemeanor.

QUALIFICATIONS OF STREET RAILWAY CONDUCTORS, MOTORMEN, ETC.

THE RAILROAD LAW, CHAPTER 49 OF THE CONSOLIDATED LAWS.

§ 63. Persons employed as drivers, conductors, motormen or gripmen.—Any railroad corporation may employ any inhabitant of the state, of the age of twenty-one years, not addicted to the use of intoxicating liquors, as a car driver, conductor, motorman or gripman, or in any other capacity, if fit and competent therefor. All applicants for positions as motormen or gripmen on any street surface railroad in this state shall be subjected to a thorough examination by the officers of the corporation as to their habits, physical ability and intelligence. If this examination is satisfactory, the applicant shall be placed in the shop or power house where he can be made familiar with the power and machinery he is about to control. He shall then be placed on a car with an instructor, and when the latter is satisfied as to the applicant's capability for the position of motorman or gripman, he shall so certify to the officers of the company, and, if appointed, the applicant shall first serve on the lines of least travel. Any violation of the provisions of this section shall be a misdemeanor.

EMPLOYMENT OF INTEMPERATE PERSONS ON RAILWAYS AND STEAMBOATS.

PENAL LAW, CHAPTER 40 OF THE CONSOLIDATED LAWS.

§ 1913. Employment by common carrier of person addicted to intoxication.

— Any person or officer of an association or corporation engaged in the business of conveying passengers or property for hire, who shall employ in the conduct of such business, as an engineer, fireman, conductor, switch-tender, train dispatcher, telegrapher, commander, pilot, mate, fireman or in other like capacity, so that by his neglect of duty, the safety and security of life, person or property so conveyed might be imperiled, any person who habitually indulges in the intemperate use of liquors, after notice that such person has been intoxicated, while in the active service of such person, association or corporation, shall be guilty of a misdemeanor.

§ 1984. Intoxication or other misconduct of railroad or steamboat employees.— 1. Any person who, being employed upon any railway as engineer, conductor, baggagemaster, brakeman, switch-tender, fireman, bridge-tender, flagman, signal man, or having charge of stations, starting, regulating or running trains upon a railroad, or, being employed as captain, engineer or other officer of a vessel propelled by steam, is intoxicated while engaged in the discharge of any such duties; or,

2. An engineer, conductor, brakeman, switch-tender, or other officer, agent or employee of any railroad corporation, who wilfully violates or omits his duty as such officer, agent or employee, by which human life or safety is endangered, the punishment of which is not otherwise prescribed,

Is guilty of a misdemeanor.

See also §§ 322-323 of the Highway Law (ch. 25 of the Consolidated Laws) forbidding the employment of persons addicted to drunkenness by owners of public carriages.

MISCONDUCT OF OFFICIALS OR EMPLOYEES ON ELEVATED RAILROADS.

PENAL LAW, CHAPTER 40 OF THE CONSOLIDATED LAWS.

§ 1983. Misconduct of officials or employees on elevated railroads.— Any conductor, brakeman, or other agent or employee of an elevated railroad, who:

1. Starts any train or car of such railroad, or gives any signal or order to any engineer or other person to start any such train or car, before every passenger therein who manifests an intention to depart therefrom by arising, or moving toward the exit thereof, has departed therefrom; or before every passenger on the platform or station at which the train has stopped, who manifests a desire to enter the train, has actually boarded or entered the same, unless due notice is given by an authorized employee of such railroad that the train is full, and that no more passengers can then be received; or,

2. Obstructs the lawful ingress or egress of a passenger to or from any such car; or,

3. Opens a platform gate of any such car while the train is in motion, or starts such train before such gate is firmly closed,

Is guilty of a misdemeanor.

Formerly Penal Code, § 419.

WEARING OF UNIFORMS AND BADGES.

PENAL LAW, CHAPTER 40 OF THE CONSOLIDATED LAWS.

§ 1989. **Inciting railroad employees not to wear uniform; unauthorized wearing of uniform.**—A person who:

1. Advises or induces any one, being an officer, agent or employee of a railway company, to leave the service of such company, because it requires a uniform to be worn by such officer, agent or employee, or to refuse to wear such uniform, or any part thereof; or,
2. Uses any inducement with a person employed by a railway company to go into the service or employment of any other railway company, because a uniform is required to be worn; or,
3. Wears the uniform designated by a railway company without authority, Is guilty of a misdemeanor.

RAILROAD LAW, CHAPTER 49 OF THE CONSOLIDATED LAWS.

§ 65. **Conductors and employees must wear badges.**—Every conductor and employee of a railroad corporation employed on a passenger train, or at stations for passengers, shall wear upon his hat or cap a badge, which shall indicate his office or employment, and the initial letters of the corporation employing him. No conductor or collector without such badge shall demand or receive from any passenger any fare or ticket or exercise any of the powers of his employment. No officer or employee without such badge shall meddle or interfere with any passenger, his baggage or property.

CONDUCTORS AND TRAINMEN AS POLICEMEN.

RAILROAD LAW, CHAPTER 49 OF THE CONSOLIDATED LAWS.

§ 88. **When conductors and brakemen may be policemen.**—The governor may appoint any conductor or brakeman on any train conveying passengers on any steam railroad in this state, a policeman, with all the powers of a policeman in cities and villages, for the preservation of order and of the public peace, and the arrest of all persons committing offenses upon the land or property of the corporation owning or operating such railroad; and he may also appoint, on the application of any such corporation, or of any steamboat company, such additional policemen, designated by it, as he may deem proper, who shall have the same powers. Every such policeman shall within fifteen days after receiving his commission, and before entering upon the duties of his office, take and subscribe the constitutional oath of office, and file it with his commission in the office of the secretary of state. The post-office address of the person appointed shall appear in the commission, and whenever such address is changed the person appointed shall file with the governor a statement of the new address. Every such policeman shall when on duty wear a metallic shield with the words "railroad police" or "steamboat police," as the case may be, and the name of the corporation for which appointed inscribed thereon, which shall always be worn in plain view, except when employed as a detective. The compensation of every such policeman shall be such as may be agreed upon between him and the corporation for which he is appointed, and shall be paid by the corporation. When any corporation shall no longer require the services of any such

policemen it may file notice to that effect in the office in which notice of his appointment was originally filed, and thereupon such appointment shall cease and be at an end. The governor may also at pleasure revoke the appointment of any such policeman by filing a revocation thereof in the office of the secretary of state and mailing a notice of such filing to the corporation for which he was appointed, and also to the person whose appointment is revoked, at his last post-office address as the same appears in the commission or the latest statement thereof on file. If such person thereafter, knowing of such revocation or having in any manner received notice thereof, exercises or attempts to exercise any of the powers of a policeman, under this section, he shall be guilty of a misdemeanor; and the filing and mailing of such notice, as above provided, shall be presumptive evidence that such person knew of the revocation. [*As am'd by L. 1911, ch. 817.*]

PROVIDING FOR BAIL OF RAILWAY EMPLOYEES IN CASES OF ACCIDENT.

CODE OF CRIMINAL PROCEDURE.

§ 554a. **Bail of certain railroad employees.**—Whenever a person employed as an engineer, fireman, motorman, conductor, trainman or otherwise, on a train or car of a steam, elevated or street surface railroad, is arrested in any city on a criminal charge, arising from an accident in connection with the operation of such train or car, resulting in an injury or death to a person or injury to property, such engineer, fireman, motorman, conductor, trainman or other employee, shall be immediately taken before a magistrate, if one is accessible, and otherwise, before a captain or sergeant of police, or acting sergeant of police, in charge of a police station in such city, and be given an opportunity to be admitted to bail. Such bail shall be taken in the same manner, so far as practicable, as is provided by section five hundred and fifty-four of this code, for the taking of bail in case of misdemeanors by a captain or sergeant of police, or acting sergeant of police in a city or village, except that the amount of bail shall be fixed by such officer at not exceeding one thousand dollars, and except that the undertaking shall provide for the appearance of the defendant before the magistrate, coroner, or other officer, who, except for this section, would be authorized to take such bail. Such officer may however in his discretion, instead of exacting bail release such employee on his own recognizance, conditional for his appearance as above provided in case an undertaking is required. [*Added by L. 1903, ch. 614.*]

UNCLAIMED ARTICLES FOUND IN PUBLIC VEHICLES TO BE SOLD FOR BENEFIT OF EMPLOYEES' ASSOCIATION.

RAILROAD LAW, CHAPTER 49 OF THE CONSOLIDATED LAWS.

§ 199. **Sale of unclaimed property.**—It shall be the duty of every street surface railroad corporation doing business in this state, and of every corporation engaged in this state in the business of carrying passengers for hire in cabs, coaches, or other similar vehicles or of letting such vehicles for hire, or in the business of operating a line of stages or omnibuses, which shall have unclaimed property left in its cars, cabs, coaches, stages or other similar vehicles, to ascertain if possible, the owner or owners of such prop-

erty, and to notify such owner or owners of the fact by mail as soon as possible, after such property comes into its possession. Every such corporation which shall have such property not perishable, in its possession for the period of three months, may sell the same at public auction, after giving notice to that effect, by one publication, at least ten days prior to the sale, in a daily newspaper published in the city or village in which such sale is to take place, of the time and place at which such sale will be held, and such sale may be adjourned from time to time until all the articles offered for sale are sold. All perishable property so left, may be sold by any such corporation without notice, as soon as it can be, upon the best terms that can be obtained.

§ 200. Disposition of proceeds.—All moneys arising from the sale of any such unclaimed property, after deducting charges for storage and expenses of sale, shall be paid by any such corporation to the treasurer of any association, composed of the employees of such corporation, having for its object the pecuniary assistance of its members in case of disability caused by sickness or accident, for the use and benefit of such association and its members; and where no such association of the employees of any such corporation is in existence at the time of any such sale, such moneys shall be paid over to the county treasurer of the county or if in a city, to the chief fiscal officer thereof, in which such sale took place for the benefit of such city or county.

Cf. Railroad Law, § 68, relating to sale of "Unclaimed freight and baggage," and General Business Law (ch. 20 of the Consolidated Laws), §§ 207-208, relating to sale of unclaimed articles in hotels, for benefit of county poor.

COMPLAINTS TO PUBLIC SERVICE COMMISSIONS.

PUBLIC SERVICE COMMISSIONS LAW, CHAPTER 48 OF THE CONSOLIDATED LAWS.

§ 45. General powers and duties of commissions in respect to common carriers, railroads and street railroads.— * * * 2. Each commission shall have the general supervision of all common carriers, railroads, street railroads, railroad corporations and street railroad corporations within its jurisdiction as hereinbefore defined, and shall have power to and shall examine the same and keep informed as to their general condition, their capitalization, their franchises and the manner in which their lines and property, owned, leased, controlled or operated, are managed, conducted and operated, not only with respect to the adequacy, security and accommodation afforded by their service, but also with respect to their compliance with all provisions of law, orders of the commission and charter requirements. Each commission shall have power, either through its members or responsible engineers or inspectors duly authorized by it, to enter in or upon and to inspect the property, equipment, buildings, plants, factories, power-houses and offices of any of such corporations or persons, including the right for such inspection purpose to ride upon any freight locomotive or train or any passenger locomotive or train while in service; and to have upon reasonable notice the use of an inspection locomotive or special locomotive and inspection car for a physical inspection once annually of all the lines and stations of each common carrier under its supervision; and to the extent that such facilities for inspection involve transportation each commissioner and each such employee shall pay the published one-way fare established by the common carrier for the transportation of

persons by regular passenger trains over the distance covered by such inspection. The cost of such transportation, if the commission so elects, may be paid upon bill rendered to the commission after the transportation has been furnished and the amount thereof ascertained.

3. Each commission and each commissioner shall have power to examine all books, contracts, records, documents and papers of any person or corporation subject to its supervision, and by subpoena duces tecum to compel production thereof. In lieu of requiring production of originals by subpoena duces tecum, the commission or any commissioner may require sworn copies of any such books, records, contracts, documents and papers or parts thereof to be filed with it.

* * * * *

§ 48. Investigations by commission.—1. Each commission may, of its own motion, investigate or make inquiry, in a manner to be determined by it, as to any act or thing done or omitted to be done by any common carrier, railroad corporation or street railroad corporation, subject to its supervision, and the commission must make such inquiry in regard to any act or thing done or omitted to be done by any such common carrier, railroad corporation or street railroad corporation in violation of any provision of law or in violation of any order of the commission.

2. Complaints may be made to the proper commission by any person or corporation aggrieved, by petition or complaint in writing setting forth any thing or act done or omitted to be done by any common carrier, railroad corporation or street railroad corporation in violation, or claimed to be in violation, of any provision of law or of the terms and conditions of its franchise or charter or of any order of the commission. Upon the presentation of such a complaint the commission shall cause a copy thereof to be forwarded to the person or corporation complained of, which may be accompanied by an order, directed to such person or corporation, requiring that the matters complained of be satisfied, or that the charges be answered in writing within a time to be specified by the commission. If the person or corporation complained of shall make reparation for any injury alleged and shall cease to commit, or to permit, the violation of law, franchise or order charged in the complaint, and shall notify the commission of that fact before the time allowed for answer, the commission need take no further action upon the charges. If, however, the charges contained in such petition be not thus satisfied, and it shall appear to the commission that there are reasonable grounds therefor, it shall investigate such charges in such manner and by such means as it shall deem proper, and take such action within its powers as the facts justify.

3. Whenever either commission shall investigate any matter complained of by any person or corporation aggrieved by any act or omission of a common carrier, railroad corporation or street railroad corporation under this section it shall be its duty to make and file an order either dismissing the petition or complaint or directing the common carrier, railroad corporation or street railroad corporation complained of to satisfy the cause of complaint in whole or to the extent which the commission may specify and require.

INDUSTRIAL EDUCATION.

THE APPRENTICE SYSTEM.

[Apprenticeship is regulated by Article VIII of the Domestic Relations Law (printed below), which is to be enforced by the Commissioner of Labor (see § 67 of the Labor Law, *ante*). The Penal Law makes it a misdemeanor to take an apprentice without the consent of the parent or guardian (§ 1275, 3, *ante*), and the Code of Criminal Procedure (Title IX of Part VI) prescribes the proceedings respecting masters, apprentices and servants.]

DOMESTIC RELATIONS LAW, CHAPTER 14 OF THE CONSOLIDATED LAWS.

ARTICLE 8.

Apprentices and Servants.

Section 120. Definitions; effect of article.

121. Contents of indenture.

122. Indenture by minor; by whom signed.

123. Indenture by poor officers; by whom signed.

124. Binding out children by charitable corporation; indenture; by whom signed.

125. Penalty for failure of master or employer to perform provisions of indenture.

126. Assignment of indenture on death of master or employer.

127. Contract with apprentice in restraint of trade void.

§ 120. Definitions; effect of article.—The instrument whereby a minor is bound out to serve as a clerk or servant in any trade, profession or employment, or is apprenticed to learn the art or mystery of any trade or craft, is an indenture.

Every indenture made in pursuance of the laws repealed by this chapter shall be valid hereunder, but hereafter a minor shall not be bound out or apprenticed except in pursuance of this article.

§ 121. Contents of indenture.—Every indenture must contain:

1. The names of the parties;

2. The age of the minor as nearly as can be ascertained, which age on the filing of the indenture shall be taken *prima facie* to be the true age;

3. A statement of the nature of the service or employment to which the minor is bound or apprenticed;

4. The term of service or apprenticeship, stating the beginning and end thereof;

5. An agreement that the minor will not leave his master or employer during the term for which he is indentured;

6. An agreement that suitable and proper board, lodging and medical attendance for the minor during the continuance of the term shall be provided, either by the master or employer, or by the parent or guardian of the apprentice;

7. A statement of every sum of money paid or agreed to be paid in relation to the service;

8. If such minor is bound as an apprentice to learn the art or mystery of any trade or craft, an agreement on the part of the employer to teach, or cause to be carefully and skillfully taught, to such apprentice, every branch of the business to which such apprentice is indentured, and that at the ex-

piration of such apprenticeship he will give to such apprentice a certificate, in writing, that such apprentice has served at such trade or craft a full term of apprenticeship specified in such indenture;

9. If a minor is indentured by the poor officers of a county, city or town, or by the authorities of an orphan asylum, penal or charitable institution, an agreement that the master or employer will cause such child to be instructed in reading, writing and the general rules of arithmetic, and that at the expiration of the term of service he will give to such minor a new bible.

Every such indenture shall be filed in the office of the county clerk of the county where the master or employer resides.

§ 122. **Indenture by minor; by whom signed.**—Any minor may, by the execution of the indenture provided by this article, bind himself or herself:

1. As an apprentice to learn the art or mystery of any trade or craft for a term of not less than three nor more than five years;

2. As a servant or clerk in any profession, trade or employment for a term of service not longer than the minority of such minor, unless such indenture be made by a minor coming from a foreign country, for the purpose of paying his passage, when such indenture may be made for a term of one year although such term may extend beyond the time when such person will be of full age.

An indenture made in pursuance of this section must be signed,

1. By the minor;
2. By the father of the minor unless he is legally incapable of giving consent or has abandoned his family;
3. By the mother of the minor unless she is legally incapable of giving consent;
4. By the guardian of the person of the minor, if any;
5. If there be neither parents nor guardian of the minor legally capable of giving consent, by the county judge of the county, or a justice of the supreme court of the district, in which the minor resides; whose consent shall be necessary to the binding out or apprenticing in pursuance of this section of a minor coming from a foreign country or of the child of an Indian woman, in addition to the other consents herein provided;
6. By the master or employer.

§ 123. **Indenture by poor officers; by whom signed.**—The poor officers of a municipal corporation may, by an execution of the indenture provided by this article, bind out or apprentice any minor whose support shall become chargeable to such municipal corporation.

In such case the indenture shall be signed,

1. By the officer or officers binding out or apprenticing the minor;
2. By the master or employer;
3. By the county judge of the county, if the support of such child was chargeable to the county, by two justices of the peace, if chargeable to the town, or by the mayor and aldermen or any two of them, if chargeable to the city.

The poor officers by whom a child is indentured and their successors in office shall be guardians of every such child and shall inquire into the treatment thereof, and redress any grievance as provided by law.

§ 124. **Binding out children by charitable corporation; indenture; by whom signed.**—An orphan asylum or charitable institution, incorporated for the care of orphans, friendless or destitute children, may bind out as an apprentice, clerk or servant, an indigent or poor child by an indenture in writing. Such child must have been absolutely surrendered to the care and custody of such asylum or institution in pursuance of this chapter, or have been placed therein as a poor person, as provided in section fifty-six of the poor law, or have been left to the care of such asylum or institution with no provision by the parent, relative or legal guardian of such child, for its support, for a period of one year then next preceding. Such indenture shall bind such child, if a male, for a period which shall not extend beyond his twenty-first year, and if a female, for a period which shall not extend beyond her eighteenth year. Every such child shall, when practicable, be bound out or apprenticed to persons of the same religious faith as the parents of such child. The indenture shall in such case be signed:

1. In the corporate name of such institution by the officer or officers thereof authorized by the directors to sign the corporate name to such instrument, and shall be sealed with the corporate seal;
2. By the master or employer.

Such indenture may also be signed by the child, if over twelve years of age.

§ 125. **Penalty for failure of master or employer to perform provisions of indenture.**—If a master or employer to whom a minor has been indentured shall fail, during the term of service, to perform any provision of such indenture on his part, such minor or any person in his behalf may bring an action against the master or employer to recover damages for such failure; and if satisfied that there is sufficient cause, the court shall direct such indenture to be canceled, and may render judgment against such master or employer for not to exceed one thousand nor less than one hundred dollars, to be collected and paid over for the use and benefit of such minor to the corporation or officers indenturing such minor, if so indentured, and otherwise, to the parents or guardian of the child.

§ 126. **Assignment of indenture on death of master or employer.**—On the death of a master or employer to whom a person is indentured by the poor officers of a municipal corporation, the personal representatives of the master or employer may, with the written and acknowledged consent of such person, assign such indenture and the assignee shall become vested with all the rights and subject to all the liabilities of his assignor, or if such consent be refused, the assignment may be made with like effect by the county judge of the county, on proof that fourteen days' notice of the application therefor has been given to the person indentured, to the officers by whom indentured, and to his parent or guardian, if in the country.

§ 127. **Contract with apprentice in restraint of trade void.**—No person shall accept from any apprentice any agreement or cause him to be bound by oath, that after his term of service expires he will not exercise his trade, profession or employment in any particular place; nor shall any person exact from any apprentice, after his term of service expires, any money or other thing, for exercising his trade, profession or employment in any place. Any security given in violation of this section shall be void; and any money paid, or valuable thing delivered, for the consideration, in whole or in part, of any

such agreement or exaction, may be recovered by the person paying the same with interest; and every person accepting such agreement, causing such obligation to be entered into, or exacting money or other thing, is also liable to the apprentice in the penalty of one hundred dollars, which may be recovered in a civil suit.

INDUSTRIAL TRAINING IN THE PUBLIC SCHOOLS.

EDUCATION LAW, CHAPTER 16 OF THE CONSOLIDATED LAWS (AS AMENDED BY L. 1910, CH. 140).

ARTICLE 22.

General Industrial Schools, Trade Schools, and Schools of Agriculture, Mechanic Arts and Home Making.

Section 600. General industrial schools, trade schools, and schools of agriculture, mechanic arts and home making, may be established in cities.

601. Such schools may be established in union free school districts.

602. Appointment of an advisory board.

603. Authority of the board of education over such schools.

604. State aid for general industrial schools, trade schools, and schools of agriculture, mechanic arts and home making.

605. Application of such moneys.

606. Annual estimate by board of education and appropriations by municipal and school districts.

607. Courses in schools of agriculture for training of teachers.

§ 600. General industrial schools, trade schools and schools of agriculture, mechanic arts and home making, may be established in cities.—The board of education of any city, and in a city not having a board of education the officer having the management and supervision of the public school system, may establish, acquire, conduct and maintain as a part of the public school system of such city the following:

1. General industrial schools open to pupils who have completed the elementary school course or who have attained the age of fourteen years, and;

2. Trade schools open to pupils who have attained the age of sixteen years and have completed either the elementary school course or a course in the above mentioned general industrial school or who have met such other requirements as the local school authorities may have prescribed.

3. Schools of agriculture, mechanic arts and home making, open to pupils who have completed the elementary school course or who have attained the age of fourteen, or who have met such other requirements as the local school authorities may have prescribed.

§ 601. Such schools may be established in union free school districts.—The board of education of any union free school district shall also establish, acquire and maintain such schools for like purposes whenever such schools shall be authorized by a district meeting.

§ 602. Appointment of an advisory board.—1. The board of education in a city and the officer having the management and supervision of the public school system in a city not having a board of education shall appoint an advisory board of five members representing the local trades, industries, and

occupations. In the first instance two of such members shall be appointed for a term of one year and three of such members shall be appointed for a term of two years. Thereafter as the terms of such members shall expire the vacancies caused thereby shall be filled for a full term of two years. Any other vacancy occurring on such board shall be filled by the appointing power named in this section for the remainder of the unexpired term.

2. It shall be the duty of such advisory board to counsel with and advise the board of education or the officer having the management and supervision of the public school system in a city not having a board of education in relation to the powers and duties vested in such board or officer by section six hundred and three of this chapter.

§ 603. Authority of the board of education over such schools.—The board of education in a city and the officer having the management and supervision of the public school system in a city not having a board of education and the board of education in a union free school district which authorizes the establishment of a general industrial school, a trade school, or a school of agriculture, mechanic arts and home making, is vested with the same power, and authority over the management, supervision and control of such school and the teachers or instructors employed therein as such board or officer now has over the schools and teachers under their charge. Such boards of education or such officer shall also have full power and authority:

1. To employ competent teachers or instructors.
2. To provide proper courses of study.
3. To purchase or acquire sites and grounds and to purchase, acquire, lease or construct and to repair suitable shops or buildings and to properly equip the same.
4. To purchase necessary machinery, tools, apparatus and supplies.

§ 604. State aid for general industrial schools, trade schools, and schools of agriculture, mechanic arts and home making.—1. The commissioner of education in the annual apportionment of the state school moneys shall apportion therefrom to each city and union free school district the sum of five hundred dollars for each independently organized general industrial school, trade school, or a school of agriculture, mechanic arts and home making, maintained therein for thirty-eight weeks during the school year and employing one teacher whose work is devoted exclusively to such school, and having an enrollment of at least twenty-five pupils and maintaining a course of study approved by him.

2. The commissioner of education shall also make an additional apportionment to each city and union free school district of two hundred dollars for each additional teacher employed exclusively in such schools for thirty-eight weeks during the school year.

3. The commissioner of education may in his discretion apportion to a district or city maintaining such schools or employing such teachers for a shorter time than thirty-eight weeks, an amount pro rata to the time such schools are maintained or such teachers are employed. This section shall not be construed to entitle manual training high schools or other secondary schools maintaining manual training departments, to an apportionment of funds herein provided for.

§ 605. Application of such moneys.—All moneys apportioned by the commissioner of education for general industrial or trade schools shall be used

exclusively for the support and maintenance of such schools in the city or district to which such moneys are apportioned.

§ 606. **Annual estimate by board of education and appropriations by municipal and school districts.**—1. The board of education of each city or the officer having the management and supervision of the public school system in a city not having a board of education shall file with the common council of such city, within thirty days after the commencement of the fiscal year of such city, a written itemized estimate of the expenditures necessary for the maintenance of its general industrial schools, trade schools, or schools of agriculture, mechanic arts and home making, and the estimated amount which the city will receive from the state school moneys applicable to the support of such schools. The common council shall give a public hearing to such persons as wish to be heard in reference thereto. The common council shall adopt such estimate and, after deducting therefrom the amount of state moneys applicable to the support of such schools, shall include the balance in the annual tax budget of such city. Such amount shall be levied, assessed and raised by tax upon the real and personal property liable to taxation in the city at the time and in the manner that other taxes for school purposes are raised. The common council shall have power by a two-thirds vote to reduce or reject any item included in such estimate.

2. The board of education in a union free school district which maintains a general industrial school, trade school, or a school of agriculture, mechanic arts and home making, shall include in its estimate of expenses pursuant to the provisions of sections three hundred and twenty-three and three hundred and twenty-seven of this chapter the amount that will be required to maintain such schools after applying toward the maintenance thereof the amount apportioned therefor by the commissioner of education. Such amount shall thereafter be levied, assessed and raised by tax upon the taxable property of the district at the time and in the manner that other taxes for school purposes are raised in such district.

§ 607. **Courses in schools of agriculture for training of teachers.**—The state schools of agriculture at Saint Lawrence University, at Alfred University and at Morrisville may give courses for the training of teachers in agriculture, mechanic arts, domestic science or home making, approved by the commissioner of education. Such schools shall be entitled to an apportionment of money as provided in section six hundred and four of this chapter for schools established in union free school districts. Graduates from such approved courses may receive licenses to teach agriculture, mechanic arts and home making in the public schools of the state, subject to such rules and regulations as the commissioner of education may prescribe.

FREE LECTURES FOR WORKINGPEOPLE.

LAWS OF 1888, CHAPTER 545.

AN ACT to provide for lectures for workingmen and workingwomen [in New York City].

§ 1. The board of education of the city of New York is hereby authorized and empowered to provide for the employment of competent lecturers to deliver lectures on the natural sciences and kindred subjects in the public schools of said city in the evenings for the benefit of workingmen and workingwomen.

§ 2. The said board of education shall have power to purchase the books, stationery, charts and other things necessary and expedient to successfully conduct said lectures which it shall have power to direct.

§ 3. No admission fee shall be charged, and at least one school in each ward of said city or such hall or halls therein, if there is not suitable accommodation in the school buildings for persons attending said lectures, where in the judgment of the said board of education it is practicable or expedient, shall be selected and designated by said board for the purpose of carrying out the provisions of this act, and one or more lectures, in the discretion of said board, shall be delivered in each school or other building so selected and designated in each week, between the first day of October in each year and the thirty-first day of March in each succeeding year, excepting the two weeks preceding and the week following the first day of January in each year; and such lecture or lectures may be advertised in a newspaper or newspapers published in said city, or otherwise, as the said board of education in its discretion shall determine. The board of estimate and apportionment of the city and county of New York is hereby authorized to appropriate annually sufficient money to carry out the provisions of this act. [*As am'd by L. 1889, ch. 383; L. 1890, ch. 305; L. 1891, ch. 71.*]

LICENSING OF TRADES.

[State examination boards grant certificates or licenses to nurses, pharmacists, physicians and other professions, and also to marine engineers and chauffeurs; but the regulation of other licensed *trades* is delegated to municipalities. Of the various local laws only those applying to New York City are here reprinted.]

LICENSING OF ENGINEERS AND PILOTS OF VESSELS.

THE NAVIGATION LAW, CHAPTER 37 OF THE CONSOLIDATED LAWS.

§ 17. Licenses.—Every person employed as master, pilot or engineer on board of a steam vessel or a vessel propelled by machinery, carrying passengers for hire or towing for hire, shall be examined by the inspectors as to his qualifications, and if satisfied therewith they shall grant him a license for the term of one year for such boat, boats or class of boats as said inspectors may specify in such license. In a proper case, the license may permit and specify that the master may act as pilot, and in case of small vessels also as engineer and pilot. The license shall be framed under glass, and posted in some conspicuous place on the vessel on which he may act. Whoever acts as master, pilot or engineer, without having first received such license, or upon a boat or class of boats not specified in his license, shall be liable to a penalty of fifty dollars for each day that he so acts, except as in this article otherwise specified, and such license may be revoked by the inspectors for intemperance, incompetency or wilful violation of duty.

§ 34. * * Each person licensed shall pay five dollars for each original license and three dollars for each renewal thereof. * * [Added by L. 1905, ch. 359.]

For the act regulating the pilotage of the port of New York see Navigation Law, § 56.

LICENSING OF CHAUFFEURS.

THE HIGHWAY LAW, CHAPTER 30 OF THE CONSOLIDATED LAWS.

§ 281. Definitions.—* * * The term "chauffeur" shall mean any person operating or driving a motor vehicle, as an employee or for hire. * * * [As am'd by L. 1910, ch. 374 and L. 1911, ch. 491.]

§ 289. License of chauffeurs; renewals.—1. License of chauffeurs. Application for license to operate motor vehicles, as a chauffeur, may be made, by mail or otherwise, to the secretary of state or his duly authorized agent upon blanks prepared under his authority. The secretary of state shall appoint examiners and cause examinations to be held at convenient points throughout the state as often as may be necessary. Such application shall be accompanied by a photograph of the applicant in such numbers and forms as the secretary of state shall prescribe, said photograph to be taken within thirty days prior to the filing of said application and to be accompanied by the fee provided herein. Before such a license is granted the applicant shall pass such examination as to his qualifications as the secretary of state shall require. No chauffeur's license shall be issued to any person under eighteen years of age. To each person shall be assigned some distinguishing number or mark, and the license issued shall be in such form as the secretary

of state shall determine; it may contain special restrictions and limitations concerning the type of motor power, horse power, design and other features of the motor vehicles which the licensee may operate; it shall contain the distinguishing number or mark assigned to the licensee, his name, place of residence and address, a brief description of the licensee for the purpose of identification and the photograph of the licensee. Such distinctive number or mark shall be of a distinctly different color each year and in any year shall be of the same color as that of the number plates issued for that year. The secretary of state shall furnish to every chauffeur so licensed a suitable metal badge with the distinguishing number or mark assigned to him thereon without extra charge therefor. This badge shall thereafter be worn by such chauffeur affixed to his clothing in a conspicuous place, at all times while he is operating or driving a motor vehicle upon the public highway. Said badge shall be valid only during the term of the license of the chauffeur to whom it is issued as aforesaid. Every person licensed to operate motor vehicles as aforesaid shall indorse his usual signature on the margin of the license, in the space provided for the purpose, immediately upon receipt of said license, and such license shall not be valid until so indorsed. Every application for license filed under the provisions of this section shall be sworn to and shall be accompanied by a fee of five dollars, two dollars of which shall be for his examination aforesaid and three dollars for license fee. The license hereunder granted on or before August first, nineteen hundred and ten, shall take effect on that date, and licenses issued prior to January thirty-first, nineteen hundred and eleven, shall expire on that date. The fees for such licenses shall be one-half of the annual fees provided herein.

2. Chauffeur's licensed registration book. Upon the receipt of such an application, the secretary of state shall thereupon file the same in his office, and register the applicant in a book or index which shall be kept in the same maner as the book or index for the registration of motor vehicles, and when the applicant shall have passed the examination provided for in the preceding section, the number or mark assigned to such applicant together with the fact that such applicant has passed such examination shall be noted in said book or index.

3. Unauthorized possession or use of license or badge. No chauffeur having been licensed as herein provided shall voluntarily permit any other person to possess or use his license or badge, nor shall any person while operating or driving a motor vehicle use or possess any license or badge belonging to another person, or a fictitious license or badge.

4. Unlicensed chauffeurs cannot drive motor vehicle. No person shall operate or drive a motor vehicle as a chauffeur upon a public highway of this state after the first day of August, nineteen hundred and ten, unless such person shall have complied in all respects with the requirements of this section; provided, however, that a nonresident chauffeur, who has registered under provisions of law of the foreign country, state, territory or federal district of his residence substantially equivalent to the provisions of this section, shall be exempt from license under this section; and provided, further, he shall wear the badge assigned to him in the foreign country, state, territory or federal district of his residence in the manner provided in this section.

5. Renewal. Such license shall be renewed annually upon the payment of the same fee as provided in this section for the original license, such renewal to take effect on the first day of February of each year. The secretary of state may refuse to issue or renew a license if he deems the applicant not qualified to receive such license, but the refusal of the secretary of state may be reviewed by writ of certiorari. For renewals to take effect on and after February first, nineteen hundred and twelve, the fee shall be two dollars. [*As am'd by L. 1910, ch. 374 and L. 1911, ch. 491.*]

EXAMINATION AND LICENSING OF PLUMBERS IN CITIES.

THE GENERAL CITY LAW, CHAPTER 21 OF THE CONSOLIDATED LAWS.

§ 40. Examining boards of plumbers in cities.—The existing boards for the examination of plumbers in cities of this state are continued and each shall hereafter be known as the examining board of plumbers. Such board in each city shall continue to consist of five persons to be appointed by the mayor, of whom two shall be employing or master plumbers of not less than ten years' experience in the business of plumbing, and one shall be a journeyman plumber of like experience, and the other members of such board shall be the chief inspector of plumbing and drainage of the board of health of such city, or officer performing the duties of such inspector, and the chief engineer having charge of sewers in such city, but in the event of there being no such officers in such city, then any two other officers having charge or supervision of the plumbing, drainage or sewerage, whom the mayor shall designate or appoint, or two members of the board of health of such city having like duties or acting in like capacities.

Constitutionality.—L. 1892, ch. 602, from which this statute was derived, was held constitutional as a police measure in the interest of the public health. People ex rel. Nechamcus v. Warden of the City Prison, 144 N. Y. 529 (1895).

A separate statute (L. 1896, ch. 808) regulates the practice of plumbing in New York City (see below).

* * * * *

§ 45. Examinations; conducting business without certificate prohibited.—A person desiring or intending to conduct the trade, business or calling of a plumber or of plumbing in a city of this state as employing or master plumber, shall be required to submit to an examination before such examining board of plumbers as to his experience and qualifications for such trade, business or calling; and it shall not be lawful in any city of this state for a person to conduct such trade, business or calling, unless he shall have first obtained a certificate of competency from such board of the city in which he conducts or proposes to conduct such business.

§ 46. Registration, when required.—Every employing or master plumber carrying on his trade, business or calling in any city of this state shall register his name and address at the office of the board of health of the city in which he shall conduct such business, under such rules as the respective boards of health of each of the cities shall prescribe, and thereupon he shall be entitled to receive a certificate of such registration; provided, however, that such employing or master plumber shall at the time of applying for such registration hold a certificate of competency from an examining board of plumbers.

* * * * *

§ 57. **Article limited.**— Nothing in this article shall affect or supersede any provision of chapter eight hundred and three of the laws of eighteen hundred and ninety-six, relating to plumbing in the city of New York.

LAWS OF 1896, CHAPTER 803.

AN ACT in relation to plumbing in the city of New York.

§ 1. Once in each year, every employing or master plumber carrying on his trade, business or calling in the city of New York, shall register his name and address at the office of the department of buildings in said city under such rules and regulations as said department shall prescribe, and thereupon he shall be entitled to receive a certificate of such registration from said department, provided, however, that such employing or master plumber shall, at the time of applying for such registration, hold a certificate of competency from the examining board of plumbers of said city. The time for making such registration shall be during the month of March in each year. Where, however, a person obtains a certificate of competency at a time other than in the month of March in any year, he may register within thirty days after obtaining such certificate of competency, but he must also register in the month of March in each year as above provided. Such registration may be cancelled by the superintendent of buildings for a violation of the rules and regulations for the plumbing and drainage of such city, duly adopted and in force pursuant to the provisions of this act, or whenever the person so registered ceases to be a master or employing plumber, after a hearing had before said superintendent, and upon a prior notice of not less than ten days, stating the grounds of complaint and served upon the person charged with the violation of the aforesaid rules and regulations. After the passage of this act it shall not be lawful for any person or co-partnership to engage in, or carry on the trade, business or calling of employing or master plumber in the city of New York, unless the name and address of such person and of each and every member of such co-partnership shall have been registered as above provided.

§ 2. In the city of New York it shall be unlawful for any person or persons to expose the sign of "Plumber" or "Plumbing" or a sign containing words of similar import and meaning, unless said person or persons shall have obtained a certificate of competency from the examining board of plumbers of said city and shall have registered as herein provided.

* * * * *

The statute is unconstitutional in so far as it attempts to subject non-practicing or financial partners in a plumbing firm to examination and registration. *Schnaier v. Navarre Hotel and Importation Co.*, 182 N. Y. 83 (June, 1905).

LICENSING OF MOVING-PICTURE MACHINE OPERATORS.

THE GENERAL CITY LAW, CHAPTER 21 OF THE CONSOLIDATED LAWS.

§ 18. **License to operate moving picture apparatus.**— It shall not be lawful for any person or persons to operate any moving picture apparatus and its connections in a city of the first class unless such person or persons so operating such apparatus is duly licensed as hereinafter provided. Any person desiring to act as such operator shall make application for a license to so act to the mayor or licensing authority designated by the mayor, unless

the charter of said city so designates, which officer shall furnish to each applicant blank forms of application which the applicant shall fill out. Such officer shall make rules and regulations governing the examination of applicants and the issuance of licenses and certificates. A license shall not be granted to an applicant unless he shall have served as an apprentice under a licensed operator, for a period of not less than six months prior to the date of the application; the application must be made in writing, and contain a verified statement to that effect; it must be accompanied by the affidavit of the licensed operator to the same effect; before entering upon the period of apprenticeship the applicant must register his name and address with the officer issuing such license. The applicant shall be given a practical examination under the direction of the officer required to issue such license and if found competent as to his ability to operate moving picture apparatus and its connections shall receive within six days after such examination a license as herein provided. Such license may be revoked or suspended at any time by the officer issuing the same. Every license shall continue in force for one year from the date of issue unless sooner revoked or suspended. Every license, unless revoked or suspended, as herein provided, may at the end of one year from the date of issue thereof be renewed by the officer issuing it in his discretion upon application and with or without further examination as he may direct. Every application for renewal of license must be made within the thirty days previous to the expiration of such license. With every license granted there shall be issued to every person obtaining such license a certificate, certifying that the person named therein is duly authorized to operate moving picture apparatus and its connections. Such certificate shall be displayed in a conspicuous place in the room where the person to whom it is issued operates moving picture apparatus and its connections. No person shall be eligible to procure a license unless he shall be of full age. Any person offending against the provisions of this section, as well as any person who employs or permits a person not licensed as herein provided to operate moving picture apparatus and its connections, shall be guilty of a misdemeanor and upon conviction thereof shall be punished by a fine not exceeding the sum of one hundred dollars, or imprisonment for a period not exceeding three months, or both. [Added by L. 1911, ch. 252.]

LAW OF 1901, CHAPTER 466, BEING THE REVISED CHARTER OF GREATER NEW YORK.

§ 529-a. No person to operate moving picture apparatus and its connections without a license.—It shall not be lawful for any person or persons to operate any moving picture apparatus and its connections in the city of New York unless such person or persons so operating such apparatus is duly licensed as hereinafter provided. Any person desiring to act as such operator shall make application for a license to so act to the commissioner of water supply, gas and electricity of the city of New York who shall furnish to each applicant blank forms of application which the applicant shall fill out.

The commissioner of water supply, gas and electricity shall make rules and regulations governing the examination of applicants and the issuance of licenses and certificates.

The applicant shall be given a practical examination under the direction of the commissioner of water supply, gas and electricity and if found com-

petent as to his ability to operate moving picture apparatus and its connections shall receive within six days after such examination a license as herein provided. Such license may be revoked or suspended at any time by the commissioner of water supply, gas and electricity. Every license shall continue in force for one year from the date of issue unless sooner revoked or suspended. Every license, unless revoked or suspended, as herein provided, may at the end of one year from the date of issue thereof be renewed by the commissioner of water supply, gas and electricity in his discretion upon application and with or without further examination as said commissioner may direct. Every application for renewal of license must be made within the thirty days previous to the expiration of such license. With every license granted there shall be issued to every person obtaining such license a certificate, made by the commissioner of water supply, gas and electricity or such other officer as such commissioner may designate, certifying that the person named therein is duly authorized to operate moving picture apparatus and its connections. Such certificate shall be displayed in a conspicuous place in the room where the person to whom it is issued operates moving picture apparatus and its connections. No person shall be eligible to procure a license unless he shall be a citizen of the United States and of full age. Any person offending against the provisions of this section, as well as any person who employs or permits a person not licensed as herein provided to operate moving picture apparatus and its connections, shall be deemed guilty of a misdemeanor and upon conviction thereof shall be punished by a fine not exceeding the sum of one hundred dollars or imprisonment for a period not exceeding three months, or both, in the discretion of the court. [Added by L. 1910, ch. 654.]

INSPECTION OF STEAM BOILERS AND LICENSING OF STEAM ENGINEERS IN NEW YORK CITY.*

LAWS OF 1901, CHAPTER 466, BEING THE REVISED CHARTER OF GREATER NEW YORK.

§ 342. Steam boilers; inspection of; not to be operated without certificate. — Every owner, agent or lessee of a steam boiler or boilers in use in The City of New York shall annually, and at such convenient times and in such manner and in such form as may by rules and regulations to be made therefor by the police commissioner be provided, report to the said department the location of each steam boiler or boilers, and thereupon, and as soon thereafter as practicable, the sanitary company or such member or members thereof as may be competent for the duty herein described, and may be detailed for such duty by the police commissioner shall proceed to inspect such steam boilers, and all apparatus and appliances connected therewith; but no person shall be detailed for such duty except he be a practical engineer, and the strength and security of each boiler shall be tested by atmospheric and hydrostatic pressure and the strength and security of each boiler or boilers

* For statute regulating examination of stationary engineers in Buffalo, see the charter (L. 1891, ch. 105, as am'd by L. 1899, ch. 557). As to general responsibility of persons in charge of steam boilers, see §§ 1052, 1803 of the Penal Law, given in part, under "Criminal liability for negligence," under DUTIES AND LIABILITIES OF EMPLOYERS AND EMPLOYEES, *ante*.

so tested shall have, under the control of said sanitary company, such attachments, apparatus and appliances as may be necessary for the limitation of pressure, locked and secured in like manner as may be from time to time adopted by the United States inspectors of steam boilers or the secretary of the treasury, according to act of Congress, passed July twenty-fifth, eighteen hundred and sixty-six; and they shall limit the pressure of steam to be applied to or upon such boiler, certifying each inspection and such limit of pressure to the owner of the boiler inspected, and also to the engineer in charge of same, and no greater amount of steam or pressure than that certified in the case of any boiler shall be applied thereto. In limiting the amount of pressure, wherever the boiler under test will bear the same, the limit desired by the owner of the boiler shall be the one certified. Every owner, agent or lessee of a steam boiler or boilers in use in The City of New York shall, for the inspection and testing of such or each of such boilers, as provided for in this act, and upon receiving from the police department a certificate setting forth the location of the boiler inspected, the date of such inspection, the persons by whom the inspection was made, and the limit of steam pressure which shall be applied to or upon such boiler or each of such boilers pay annually to the police commissioner for each boiler, for the use of the police pension fund, the sum of two dollars, such certificate to continue in force for one year from the granting thereof when it shall expire, unless sooner revoked or suspended. Such certificate may be renewed upon the payment of a like sum and like conditions, to be applied to a like purpose. It shall not be lawful for any person or persons, corporation or corporations, to have used or operated within The City of New York any steam boiler or boilers except for heating purposes and for railway locomotives, without having first had such boiler or boilers inspected or tested and procured for such boiler or each of such boilers so used or operated the certificate herein provided for. The superintendent and inspectors of boilers, in the employ of the police department, in the city of Brooklyn, and the boiler inspectors in Long Island City, shall continue to discharge the duties heretofore devolved upon them, subject, however, to removal for cause, or when they are no longer needed.

§ 343. **No person to use, or act as engineer for, without certificate.**—It shall not be lawful for any person or persons to operate or use any steam boiler to generate steam except for railway locomotive engines, and for heating purposes in private dwellings, and boilers carrying not over ten pounds of steam and not over ten horse-power, or to act as engineer for such purposes in The City of New York without having a certificate of qualification therefor from practical engineers detailed as such by the police department, such certificate to be countersigned by the officer in command of the sanitary company of the police department of The City of New York and to continue in force one year, unless sooner revoked or suspended. Such certificate may be revoked or suspended at any time by the police commissioner upon the report of any two practical engineers, detailed as provided in this section, stating the grounds upon which such certificate should be revoked or suspended. Where such certificate shall have been revoked, as provided in this section, a like certificate shall not in any case be issued to the same person within six months from the date of the revocation of the former certificate held by such person.

LAWS OF 1897, CHAPTER 635, AMENDING SECTION 312 OF THE NEW YORK CITY CONSOLIDATION ACT (LAWS OF 1882, CHAPTER 410).

AN ACT to amend chapter four hundred and ten of the laws of eighteen hundred and eighty-two, entitled "An act to consolidate into one act and to declare the special and local laws affecting public interests in the city of New York," relative to engineers.

Section 1. Section three hundred and twelve of chapter four hundred and ten of the laws of eighteen hundred and eighty-two is hereby amended so as to read as follows:

§ 312. The board of police shall preserve in proper form a correct record of all inspections of steam boilers made under its direction, and of the amount of steam or pressure allowed in each case, and in cases where any steam boiler or the apparatus or appliances connected therewith shall be deemed by the board, after inspection, to be insecure or dangerous, the board shall prescribe such changes and alterations as may render such boilers, apparatus and appliances secure and devoid of danger. And in the meantime, and until such changes and alterations are made, and such appliances attached, such boiler, apparatus and appliances may be taken under the control of the board of police, and all persons prevented from using the same, and in cases deemed necessary, the appliances, apparatus, or attachments for the limitation of pressure may be taken under the control of the said board of police. And no owner, or agent of such owner, or lessee of any steam boiler to generate steam, shall employ any person as engineer or to operate such boiler unless such person shall first obtain a certificate as to qualification therefor from a board of practical engineers detailed as such by the police department, such certificate to be countersigned by the officer in command of the sanitary company of the police department of the city of New York. In order to be qualified to be examined for and to receive such certificate of qualification as an engineer, a person must comply, to the satisfaction of said board, with the following requirements:

1. He must be a citizen of the United States and over twenty-one years of age.

2. He must, on his first application for examination, fill out, in his own handwriting, a blank application to be prepared and supplied by the said board of examiners, and which shall contain the name, age, and place of residence of the applicant, the place or places where employed and the nature of his employment for five years prior to the date of his application, and a statement that he is a citizen of the United States. The application shall be verified by him, and shall, after the verification, contain a certificate signed by three engineers, employed in New York city, and registered on the books of said board of examiners as engineers working at their trade, certifying that the statements contained in such application are true. Such application shall be filed with said board.

3. The following persons, who have first complied with the provisions of subdivisions one and two of this section, and no other persons may make application to be examined for a license to act as engineer.

a. Any person who has been employed as a fireman, as an oiler, or as a general assistant under the instructions of a licensed engineer in any building or buildings in the city of New York, for a period of not less than five years.

b. Any person who has served as a fireman, oiler or general assistant to the engineer on any steamship or steamboat, for a period of five years, and shall have been employed for two years under a licensed engineer in a building in the city of New York, or any person who has served as a marine or locomotive engineer or fireman to a locomotive engineer for a period of five years and shall have been a resident of the state of New York for a period of two years. [*As am'd by L. 1900, ch. 461.*]

c. Any person who has learned the trade of machinist, or boiler maker or steamfitter and worked at such trade for three years exclusive of time served as apprentice, or while learning such trade, and also any person who has graduated as a mechanical engineer from a duly established school of technology, after such person has had two years' experience in the engineering department in any building or buildings in charge of a licensed engineer in the city of New York.

d. Any person who holds a certificate as engineer issued to him by any duly qualified board of examining engineers existing pursuant to law in any state or territory of the United States and who shall file with his application a copy of such certificate and an affidavit that he is the identical person to whom said certificate was issued. If the board of examiners of engineers shall determine that the applicant has complied with the requirements of this section he shall be examined as to his qualifications to take charge of, and operate steam boilers and steam engines in the city of New York, and if found qualified said board shall issue to him a certificate of the third class. After the applicant has worked for a period of two years under his certificate of the third class, he may be again examined by said board for a certificate of the second class and if found worthy the said board may issue to him such certificate of the second class, and after he has worked for a period of one year under said certificate of the second class he may be examined for a certificate of the first class; and when it shall be made to appear to the satisfaction of said board of examiners that the applicant for either of said grades lacks mechanical skill, is a person of bad habits or is addicted to the use of intoxicating beverages he shall not be entitled to receive such grade of license and shall not be re-examined for the same until after the expiration of one year. Every owner or lessee, or the agent of the owner or lessee, of any steam boiler, steam generator, or steam engine aforesaid, and every person acting for such owner or agent is hereby forbidden to delegate or transfer to any person or persons other than the licensed engineer the responsibility and liability of keeping and maintaining in good order and condition any such steam boiler, steam generator or steam engine, nor shall any such owner, lessee or agent, enter into a contract for the operation or management of a steam boiler, steam generator or steam engine, whereby said owner, lessee or agent shall be relieved of the responsibility or liability for injury which may be caused to person or property by such steam boiler, steam generator or steam engine. Every engineer holding a certificate of qualification from said board of examiners shall be responsible to the owner, lessee, or agent employing him for the good care, repair, good order and management of the steam boiler, steam generator or steam engine in charge of, or run or operated by such engineer.

e. Any person or persons violating any provision of this section or of any of its subdivisions shall be guilty of a misdemeanor. [*Added by L. 1900, ch. 709.*]

LICENSING OF STATIONARY FIREMEN IN NEW YORK CITY.
LAWS OF 1901, CHAPTER 733.

AN ACT to provide for the licensing of firemen operating steam stationary boiler or boilers in the city of New York.

Section 1. It shall be unlawful for any fireman or firemen to operate steam stationary boiler or boilers in the city of New York, unless the fireman or firemen so operating such boiler or boilers are duly licensed as hereinafter provided. Such fireman or firemen to be under the supervision and direction of a duly licensed engineer or engineers.

§ 2. Should any boiler or boilers be found at any time operated by any person who is not a duly licensed fireman or engineer as provided by this act, the owner or lessee thereof shall be notified, and if after one week from such notification the same boiler or boilers is again found to be operated by a person or persons not duly licensed under this act, it shall be deemed prima facie evidence of a violation of this act.

§ 3. Any person desiring to act as a fireman shall make application for a license to so act, to the steam boiler bureau of the police department as now exists for licensing engineers, who shall furnish to each applicant blank forms of application, which application when filled out, shall be signed by a licensed engineer engaged in working as an engineer in the city of New York, who shall therein certify that the applicant is of good character, and has been employed as oiler, coalpasser or general assistant under the instructions of a licensed engineer on a building or buildings in the city of New York, or on any steamboat, steamship or locomotive for a period of not less than two years. The applicant shall be given a practical examination by the board of examiners detailed as such by the police commissioner and if found competent as to his ability to operate a steam boiler or boilers as specified in section one of this act shall receive within six days after such examination a license as provided by this act. Such license may be revoked or suspended at any time by the police commissioner upon the proof of deficiency. Every license issued under this act shall continue in force for one year from the date of issue unless sooner revoked as above provided. Every license issued under this act unless revoked as herein provided shall at the end of one year from date of issue thereof, be renewed by the board of examiners upon application and without further examination. Every application for renewal of license must be made within thirty days of the expiration of such license. With every license granted under this act there shall be issued to every person obtaining such license a certificate, certified by the officers in charge of the boiler inspection bureau. Such certificate shall be placed in the boiler room of the plant operated by the holder of such license, so as to be easily read.

§ 4. No person shall be eligible to procure a license under this act unless the said person be a citizen of the United States.

§ 5. All persons operating boilers in use upon locomotives or in government buildings, and those used for heating purposes carrying a pressure not exceeding ten pounds to the square inch, shall be exempt from the provisions of this act. Such license will not permit any person other than a duly licensed engineer to take charge of any boiler or boilers in the city of New York.

TRADE UNIONS.

[No special provision is made by the statutes of New York for incorporation of trade unions as business organizations. An association of workmen for the purpose of undertaking co-operative insurance may incorporate under the Insurance Law; but nothing in this law or any of the laws relating to stock corporations provides for the actual business of trade unions in contracting with employers as the agents of the employees. This primary object of trade unions finds no recognition, of course, in the non-stock corporation laws; although the unions that have incorporated in New York have done so under the Membership Corporations Law, which applies to benevolent, charitable, scientific and missionary societies.

Trade unions do not in fact find incorporation necessary in order to obtain legal standing in the courts, since the law of this State has provided since 1851 that an unincorporated association consisting of seven or more persons may sue and be sued in the name of its president and treasurer (§§ 1919-1921 of the Code of Civil Procedure, as below).

Disobedience of an injunction addressed to an unincorporated association and "its each and every member" constitutes a criminal contempt even if the violators were not personally served with the order: *People ex rel. Stearns v. Marr*, 181 N. Y. 408 (1905).

As to union labels, see §§ 15 and 16 of the Labor Law, *ante.*]

ACTION BY OR AGAINST AN UNINCORPORATED ASSOCIATION.

CODE OF CIVIL PROCEDURE, ARTICLE I OF TITLE V OF CHAPTER XV.

§ 1919. An action or special proceeding may be maintained, by the president or treasurer of an unincorporated association, consisting of seven or more persons, to recover any property, or upon any cause of action, for or upon which all the associates may maintain such an action or special proceeding, by reason of their interest or ownership therein, either jointly or in common. An action may likewise be maintained by such president or treasurer to recover from one or more members of such association his or their proportionate share of any moneys lawfully expended by such association for the benefit of such associates, or to enforce any lawful claim of such association against such member or members. An action or special proceeding may be maintained, against the president or treasurer of such an association, to recover any property, or upon any cause of action, for or upon which the plaintiff may maintain such an action or special proceeding, against all the associates, by reason of their interest or ownership, or claim of ownership therein, either jointly or in common, or their liability therefor, either jointly or severally. Any partnership, or other company of persons, which has a president or treasurer, is deemed an association within the meaning of this section.

The action, though in form against such officer, is in substance and reality against the association (*Mason v. Holmes*, 30 Misc. 719).

§ 1921. In such an action the officer against whom it is brought cannot be arrested; and a judgment against him does not authorize an execution to be issued against his property, or his person; nor does the docketing thereof bind his real property, or chattels real. Where such a judgment is for a sum of money, an execution issued thereupon must require the sheriff to satisfy the same, out of any personal or real property belonging to the association,

or owned, jointly or in common, by all the members thereof. [*As amended by L. 1898, ch. 293.*]

An action for damages held to lie against an unincorporated trade union, *Curran v. Galen*, 152 N. Y. 33 (1897); see also *Connell v. Stalker*, 20 Misc. 423 (1897); *Coons v. Chrystie*, 24 Misc. 296 (1898); *Matthews v. Shankland*, 25 Misc. 604 (1898); *Beattie v. Callanan*, 87 App. Div. 14 (1901).

AUTHORIZING THE INCORPORATION OF LABOR ORGANIZATIONS FOR BENEVOLENT PURPOSES.

THE MEMBERSHIP CORPORATIONS LAW, CHAPTER 35 OF THE CONSOLIDATED LAWS.

§ 40. Purposes for which corporations may be formed under this article.— A membership corporation may be created under this article for any lawful purpose, except a purpose for which a corporation may be created under any other article of this chapter, or any other general law than this chapter.

Reviser's Note.—"This section is intended to make one complete general statement, including every object for which membership corporations ought to be permitted under a general law, instead of a long enumeration of particular purposes, requiring new legislation whenever incorporation is desired for a new purpose. The definition of a membership corporation in section 2 will prevent the formation of a stock corporation or of a mutual benefit insurance corporation under this article. See *Matter of Lampson*, 85 App. Div. 49, *affd.* in 161 N. Y. 511; *People v. Johnson*, 22 Misc. 150."

§ 41. Certificates of incorporation.— Five or more persons may become a membership corporation for any one of the purposes for which a corporation may be formed under this article or for any two or more of such purposes of a kindred nature, by making, acknowledging and filing a certificate, stating the particular objects for which the corporation is to be formed, each of which must be such as is authorized by this article; the name of the proposed corporation; the territory in which its operations are to be principally conducted; the town, village or city in which its principal office is to be located, if it be then practicable to fix such location; the number of its directors, not less than three nor more than thirty; and the names and places of residence of the persons to be its directors until its first annual meeting. Such certificate shall not be filed without the written approval, indorsed thereupon or annexed thereto, of a justice of the supreme court. * * * On filing such certificate, in pursuance of law, the signers thereof, their associates and successors, shall be a corporation in accordance with the provisions of such certificate. * * *

AUTHORIZING LABOR ORGANIZATIONS TO MAINTAIN OR CONSTRUCT BUILDINGS, HALLS OR LIBRARIES FOR THEIR USE.

THE BENEVOLENT ORDERS LAW, CHAPTER 3 OF THE CONSOLIDATED LAWS.

§ 7. Joint corporations.— * * * any number of trades unions, trades assemblies, trades associations or labor organizations, * * * may unite in forming a corporation for the purpose of acquiring, constructing, maintaining and managing a hall, temple or other building, or a home for the aged and indigent members of such order and their dependent widows and orphans, and of creating, collecting and maintaining a library for the use of the bodies uniting to form such corporation. Each body hereafter uniting to form such corporation shall annually at a regular meeting thereof, held in

accordance with its constitution and general rules and regulations or by-laws, elect a member thereof to represent it in such corporation. * * * The trustees so elected shall make, acknowledge and file with the secretary of state, a certificate stating the name of the corporation to be formed, its purposes and objects, the names and places of residence of the trustees, the names of the bodies which they respectively represent, the names of the bodies uniting to form the corporation and their location, and the name of the town, village or city, and the county where such building is, or is to be located; and thereupon the several bodies so uniting shall be a corporation for the purposes specified in such certificate.

§ 9. Powers of joint corporations.—Such corporation may acquire real property in the town, village or city in which such hall, home, temple or building is or is to be located, and erect such building or buildings thereupon for the uses and purposes of the corporation, as the trustees may deem necessary, or repair, rebuild or reconstruct any building or buildings that may be thereupon and furnish and complete such rooms therein as may appear necessary for the use of such bodies or for any other purpose for which the corporation is formed; and may rent to other persons any room in such building or any portion of such real property. Until such real property shall be acquired or such building erected or made ready for use, the corporation may rent and sublet such rooms or apartments in such town, village or city as may be suitable or convenient for the use of the bodies mentioned in such certificate, or of such other bodies as may desire to use them, and the board of trustees may determine the terms and conditions on which rooms and apartments in such building or buildings, when erected, or which may be leased, shall be used and occupied. Before such corporation composed of not more than thirty bodies shall purchase or sell any real property, or erect or repair any building or buildings thereupon, and before it shall purchase any building or part of a building for the use of a corporation, it shall submit to the bodies constituting the corporation, the proposition to make such sale or purchase, or to erect or repair any such building or buildings, or to rent any building or part thereof, for the use of the corporation; and unless such proposition receives the approval of two-thirds of the bodies constituting the corporation, such proposition shall not be carried into effect. The evidence of the approval of such proposition by any such body shall be a certificate to that effect signed by the presiding officer and secretary of the body, or the officers discharging duties corresponding to those of the presiding officer and secretary, under the seal of such body. But where land is purchased for the purpose of erecting a hall, home or temple thereon the buildings upon such land at the time of such purchase, may be sold by the trustees without such consent. The powers of the board of trustees of every corporation created hereunder and composed of more than thirty bodies, respecting sales, purchases and repairs, shall be fixed by the by-laws adopted by the representatives of the various bodies composing such corporation, or shall be determined by such representatives when assembled in annual session. Every corporation created hereunder shall have power to enforce, at law or in equity, any legal contract which it may make with any of the bodies composing it respecting the care and maintenance of members or other dependents of such body, the same as if such body or bodies were not mem-

bers of the corporation. Any corporation created hereunder shall have power to take and hold real and personal estate by purchase, gift, devise or bequest subject to the provisions of law relating to devises and bequests by last will and testament or otherwise.

FORBIDDING LABOR ORGANIZATIONS TO DISCRIMINATE AGAINST MEMBERS OF THE NATIONAL GUARD.

PENAL LAW, CHAPTER 40 OF THE CONSOLIDATED LAWS.

§ 481. **Discrimination against members of the national guard.**—No association or corporation, constituted or organized for the purpose of promoting the success of the trade, employment, or business of the members thereof, shall by any constitution, rule, by-law, resolution, vote, or regulation, discriminate against any member of the national guard of the state of New York, because of such membership in respect of the eligibility of such member of the said national guard to membership in such association or corporation, or in respect of his right to retain said last mentioned membership; it being the purpose of this section and the section immediately preceding to protect a member of the said national guard from disadvantage in his means of livelihood and liberty therein but not to give him any preference or advantage on account of his membership of said national guard. A person who aids in enforcing any such provisions against a member of the said national guard with the intent to discriminate against him because of such membership, is guilty of a misdemeanor.

PREVENTING FRAUDULENT REPRESENTATION IN LABOR ORGANIZATIONS.

PENAL LAW, CHAPTER 40 OF THE CONSOLIDATED LAWS.

§ 1278. **Fraudulent representation in labor organizations.**—Any person who represents himself or herself to be a member of, or who claims to represent a labor organization which does not exist within the state, at the time of such representation, or who has in his or her possession a credential, certificate or letter of introduction bearing a fraudulent seal, or bearing the seal of a labor organization which has ceased to exist, and does not exist at the time of such representation, and attempts to gain admission by the use of said credential, certificate or letter of introduction, as a member of any convention, or meeting of representatives of labor organizations of the state, shall be guilty of a misdemeanor and upon conviction thereof shall be punishable by a fine of not less than twenty dollars nor more than fifty dollars, and imprisonment for not less than ten days nor more than thirty days in the jail of the county wherein such conviction is had, or by both such fine and imprisonment.

UNAUTHORIZED USE OF BADGES, TITLES, ETC.

PENAL LAW, CHAPTER 40 OF THE CONSOLIDATED LAWS.

§ 2240. **Unauthorized wearing or use of badge, name, title of officers, insignia, ritual or ceremony of certain orders and societies.**—1. Any person who wilfully wears the badge or the button of the Grand Army of the Republic, the insignia, badge or rosette of the Military Order of the Loyal Legion of the United States, or the Military Order of Foreign Wars of the

United States, or the badge or button of the Spanish war veterans, or the Order of Patrons of Husbandry, or the Benevolent and Protective Order of Elks of the United States of America, or of any society, order or organization, of ten years' standing in the state of New York, or uses the same to obtain aid or assistance within this state, or wilfully uses the name of such society, order or organization, the titles of its officers, or its insignia, ritual or ceremonies, unless entitled to use or wear the same under the constitution and by-laws, rules and regulations of such order or of such society, order or organization, is guilty of a misdemeanor.

UNLAWFUL TO COMPEL EMPLOYEES TO AGREE NOT TO JOIN LABOR ORGANIZATIONS.

PENAL LAW, CHAPTER 40 OF THE CONSOLIDATED LAWS.

§ 531. **Coercion by employers.**—Any person or employer of labor, and any person of any corporation on behalf of such corporation, who shall hereafter coerce or compel any person, employee, laborer or mechanic, to enter into an agreement, either written or verbal, from such person, employee, laborer or mechanic, not to join or become a member of any labor organization, as a condition of such person securing employment, or continuing in the employment of any such person, employer or corporation, shall be deemed guilty of a misdemeanor. The penalty for such misdemeanor shall be imprisonment in a penal institution for not more than six months, or by a fine of not more than two hundred dollars, or by both such fine and imprisonment.

This statute imposes an unauthorized restraint upon the freedom to contract in relation to the purchase and sale of labor, and is unconstitutional: *People v. Marcus*, 185 N. Y. 257 (1906).

UNLAWFUL TO BRIBE REPRESENTATIVES OF LABOR ORGANIZATIONS.

PENAL LAW, CHAPTER 40 OF THE CONSOLIDATED LAWS.

§ 380. **Bribery of labor representatives.**—A person who gives or offers to give any money or other things of value to any duly appointed representative of a labor organization with intent to influence him in respect to any of his acts, decisions, or other duties as such representative, or to induce him to prevent or cause a strike by the employees of any person or corporation, is guilty of a misdemeanor; and no person shall be excused from attending and testifying, or producing any books, papers or other documents before any court or magistrate, upon any investigation, proceeding or trial, for a violation of this section, upon the ground or for the reason that the testimony or evidence, documentary or otherwise, required of him may tend to convict him of a crime or subject him to a penalty or forfeiture; but no person shall be prosecuted or subjected to any penalty or forfeiture for or on account of any transaction, matter or thing concerning which he may so testify or produce evidence, documentary or otherwise, and no testimony so given or produced shall be received against him upon any criminal investigation or proceeding.

Cf. "Corrupt influencing of employees," (Penal Law, § 439), under DUTIES AND LIABILITIES OF EMPLOYERS AND EMPLOYEES, *ante*.

INDUSTRIAL DISPUTES.

[The "right to strike," i. e., to quit work in concert, is controlled by the statutes and judicial decisions respecting combinations. Sections 580 and 582 of the Penal Law define conspiracies, or unlawful combinations. The latter section expressly legalizes a combination (strike) for the purpose of maintaining or advancing the rate of wages, and the courts have broadened this authorization to include any peaceable and orderly strike of wage workers, *not to harm others but to improve their own condition*, within which lawful purpose may be a strike by a trade union to procure the discharge of an outsider and the employment of its own members: *Nat'l Protective Assn. v. Cumming*, 170 N. Y. 315; *Wunch v. Shankland*, 179 N. Y. 545, Mem. But concerning strikes for the "closed shop," see that topic below. Similarly, a lockout is legal if no malice is shown (*City Trust, Safe Deposit & Surety Co. v. Waldhauer*, 47 Misc. 7).

INTIMIDATION.—A strike that has a lawful purpose becomes unlawful if conducted by unlawful means. Thus it is contrary to law to use or threaten to use violence, force or intimidation in the prosecution of a strike (§ 530 of the Penal Law, defining coercion); or to endanger life by refusal to labor (§ 1910); or interfere with passengers in public conveyances (§ 720), etc.

Violation of an injunction order against illegal interference with new employees on the part of strikers constitutes criminal contempt and is punishable as such even though the individual members of the union were not personally served with the order: *People ex rel. Stearns v. Marr*, 181 N. Y. 463 (1905).

PICKETING is not defined by statute, but by the interpretation placed by the courts on the above-mentioned laws relating to coercion. One of the most authoritative discussions of "picketing" by Federal courts is in *Union Pacific Ry. Co. v. Ruef* (120 Fed. Rep. 102), and by the New York courts in a unanimous decision of the Second Appellate Division, December, 1904, which is, in part, as follows:

"'Picketing' may simply mean the stationing of men for observation. If in the doing of this act, solely for such purpose, there be no molestation or physical annoyance, or let or hindrance of any person then it can not be said that such an act is, *per se*, unlawful. But 'picketing' may also mean the stationing of a man or men to coerce or to threaten, or to intimidate or to halt or to turn aside against their will those who would go to and from the picketed place to do business, or to work, or to seek work therein, or in some other way to hamper, hinder, or harass the free dispatch of business by the employer. In that case, picketing may well be said to be unlawful. * * * I may add that I am not prepared to say that all picketing which goes no further than 'persuasion and entreaty' of those who are about to work or to seek work or to do business in the picketed place is absolutely lawful. A wayfarer upon the public street should be free for peaceful travel. No man against my will has the legal right to occupy the public street to arrest my course or to join me on my way, be he ever so polite or gentle in his insistence. There may be no intimidation, and yet an interruption of peaceful travel. There may be annoyance without danger."—*Mills v. U. S. Printing Co.*, 99 App. Div. 605.

BOYCOTTING.—The ruling of the Court of Appeals in the *Cumming* case, cited above, modified the law regarding boycotts, so that the courts do not find in a boycott *per se* the malicious purpose, or an attempt to injure, that constitutes conspiracy (*Foster v. Retail Clerks' Protective Association*, 39 Misc. 48 [1902]; *Butterick Pub. Co. v. Typographical Union No. 6*, 50 Misc. 1 [1906]). The injury inflicted may be only an incident of the act whereby the ultimate end is gained (*Mills v. U. S. Print. Co.*, 99 App. Div. 605). In this case the court unanimously indorsed Bouvier's statement, "A boycott is not unlawful unless attended with some act which in itself is illegal," and continued: "I think that the verb 'to boycott' does not necessarily signify that the doers employ violence, intimidation or other unlawful coercive means, but that it may be correctly used in the sense of the act of a combination in refusing to have business dealings with another until he removes or ameliorates conditions which are deemed inimical to the welfare of the members of the combination, or some of them, or grants concessions which are deemed to make for that purpose. And as such a combination may be

formed and held together by argument, persuasion, entreaty or by the 'touch of nature,' and may accomplish its purpose without violence or other unlawful means, i. e., simply by abstention, I think it cannot be said that 'to boycott' is to offend the law." In agreement with this view, see the opinion of the Supreme Court of Missouri (1901) in *Marx & Hass Jeans Clothing Co. v. Watson* (67 S. W. Rep. 391). On the other hand, the earlier rule is maintained in the cases of *Davis Machine Co. v. Robinson* (41 Misc. 329) and *People v. McFarlin* (43 Misc. 599). A boycott which affects inter-state commerce is illegal under the Federal anti-trust law: *Loewe v. Lawlor*, 208 U. S. 274 (the hatters' case).

BLACKLISTING.—The blacklist is in principle a form of the boycott, but is carried on in such secrecy that it has seldom come before the courts.

THE "CLOSED SHOP."—It has been held that an agreement providing for the closed shop (i. e., exclusive employment of members of a trade union) is not in violation of law and will be enforced by the courts: *Jacobs v. Cohen*, 183 N. Y. 207 (1905); *Nat'l Fire Proofing Co. v. Mason Builders' Assn.*, 145 Fed. Rep. 260, (June, 1906). *Kissam v. U. S. Printing Co.*, 199 N. Y. 76, affirming 128 App. Div. 889. But no agreement whatever makes it lawful for members of a union to coerce or maliciously interfere with non-union men (*Curran v. Galen*, 52 N. Y. 33, decided in 1897 and reaffirmed in *Jacobs* case just cited. *Of. also Beattie v. Callanan*, 82 App. Div. 7). Further, a strike for a closed shop throughout an entire trade in a locality has been held illegal as constituting conspiracy to deprive men of the exercise of the right to work (*Schwartz v. Int'l Ladies' Garment Workers' Union*, 68 Misc. 528). Similarly a requirement by employers generally in a community that employees must be members of a particular union is illegal (*McCord v. Thompson-Starrett Co.*, 129 App. Div. 130, *aff'd* in 198 N. Y. 587). A strike to prevent use by a union firm of materials manufactured by a non-union firm has been held illegal (*Irving v. Joint District Council*, 180 Fed. Rep. 896; *Newton Co. v. Erickson*, 70 Misc. 291); also a strike to prevent manufacture of goods for a non-union firm (*Schlang v. Ladies' Waist Makers' Union*, 67 Misc. 222); both these being regarded as unlawful interference with an employer's freedom. An agreement binding workmen to work only for members of an employers' association has been held illegal (*People v. Miller* in Magistrate's Court, New York City, August 20, 1904).

CONSPIRACY, INTIMIDATION, EXTORTION, ETC.

PENAL LAW, CHAPTER 40 OF THE CONSOLIDATED LAWS.

§ 580. Definition and punishment of conspiracy.—If two or more persons conspire:

1. To commit a crime; or

* * * * *

5. To prevent another from exercising a lawful trade or calling, or doing any other lawful act, by force, threats, intimidation, or by interfering or threatening to interfere with tools, implements or property belonging to or used by another, or with the use or employment thereof; or

6. To commit any act injurious to the public health, to public morals, or to trade or commerce, or for the perversion or obstruction of justice, or of the due administration of the laws;

Each of them is guilty of a misdemeanor.

§ 581. Conspiracies against peace of the state.—If two or more persons, being out of this state, conspire to commit any act against the peace of this state, the commission or attempted commission of which, within this state, would be treason against the state, they are punishable by imprisonment in a state prison not exceeding ten years.

§ 582. Punishable conspiracies.—No conspiracy is punishable criminally unless it is one of those enumerated in the last two sections, and the orderly

and peaceable assembling or co-operation of persons employed in any calling, trade or handicraft for the purpose of obtaining an advance in the rate of wages or compensation, or of maintaining such rate, is not a conspiracy.

§ 1910. **Endangering life by refusal to labor.**—A person who wilfully and maliciously, either alone or in combination with others, breaks a contract of service or hiring, knowing, or having reasonable cause to believe, that the probable consequence of his so doing will be to endanger human life, or to cause grievous bodily injury, or to expose valuable property to destruction or serious injury, is guilty of a misdemeanor.

§ 1480. **Depriving members of national guard of employment.**—A person who, either by himself or with another, wilfully deprives a member of the national guard of his employment, or prevents his being employed by himself or another, or obstructs or annoys said member of said national guard, or his employer, in respect of his trade, business, or employment, because said member of said national guard is such member, or dissuades any person from enlistment in the said national guard by threat of injury to him in case he shall so enlist, in respect of his employment, trade, or business, is guilty of a misdemeanor.

§ 530. **Coercing another person a misdemeanor.**—A person, who with a view to compel another person to do or to abstain from doing an act which such other has a legal right to do or to abstain from doing, wrongfully and unlawfully,

1. Uses violence or inflicts injury upon such other person or his family, or a member thereof, or upon his property, or threatens such violence or injury; or

2. Deprives any such person of any tool, implement, or clothing, or hinders him in the use thereof; or

3. Uses or attempts the intimidation of such person by threats or force;

Is guilty of a misdemeanor.

One who advises or induces another to commit assault or attempt other intimidation is also guilty of violating this prohibition, thus:

§ 2. **Definition of principal.**—A person concerned in the commission of a crime, whether he directly commits the act constituting the offense or aids and abets in its commission, and whether present or absent, and a person who directly or indirectly counsels, commands, induces or procures another to commit a crime, is a principal.

§ 850. **Extortion defined.**—Extortion is the obtaining of property from another, with his consent, induced by a wrongful use of force or fear, or under cover of official right.

§ 851. **What threats may constitute extortion.**—Fear, such as will constitute extortion, may be induced by an oral or written threat:

1. To do an unlawful injury to the person or property of the individual threatened, or to any relative of his or to any member of his family; or,

2. To accuse him, or any relative of his or any member of his family, of any crime; or,

3. To expose, or impute to him, or any of them, any deformity or disgrace; or,

4. To expose any secret affecting him or any of them; or, threatened, or to any relative of his or to any member of his family; or,

6. To injure his person or property or that of any relative of his or member of his family by the use of weapons or explosives. [*As am'd by L. 1911, chs. 121 and 602.*]

§ 852. **Punishment of extortion.**—A person who extorts any money or other property from another, under circumstances not amounting to robbery, is punishable by imprisonment not exceeding fifteen years, if the same is done by means of force or a threat mentioned in section eight hundred and fifty or in either of the first four subdivisions of section eight hundred and fifty-one, and by imprisonment for not less than five years nor more than twenty years if the same is done by means of a threat mentioned in subdivisions five or six of the latter section. [*As am'd by L. 1911, ch. 602.*]

Obtaining money by threats or by the continuance of a boycott as described constitutes the crime of extortion under the above sections. Those present and abetting when the money is paid or uniting in the acts that lead to the payment or the agreement to pay, though not present when the money is received, are each liable as principals. Whether the money is shared personally or placed in a fund to pay the expenses of the boycott is of no consequence as affecting the crime. *People v. Wilzig*, N. Y. Cr. 403 (1886). A labor leader was convicted of extortion for having accepted a sum of money from an employer to pay for "waiting time," as alleged, of the striking employees. *People v. Barondess*, 41 N. Y. 659 (1891). Defendant, the head of a labor organization, was properly charged with extortion when evidence showed that he had demanded and received money as the price of abandoning a boycott undertaken to coerce plaintiffs into obedience to his commands as to the number of apprentices they should employ. *People v. Hughes*, 137 N. Y. 29 (1893). Defendant, president of a labor union, was convicted of extortion because he had obtained money from a contractor under threat of continuing a strike. *People v. Weinsheimer*, 117 App. Div. 603 (Feb., 1907).

§ 720. **Relating to disorderly conduct on public conveyances.**—Any person who shall by any offensive or disorderly act or language, annoy or interfere with any person in any place or with the passengers of any public stage, railroad car, ferry boat, or other public conveyance, or who shall disturb or offend the occupants of such stage, car, boat or conveyance, by any disorderly act, language or display, although such act, conduct or display may not amount to an assault or battery, shall be deemed guilty of a misdemeanor.

§ 43. **Penalty for acts for which no punishment is expressly prescribed.**—A person who wilfully and wrongfully commits any act which seriously injures the person or property of another, or which seriously disturbs or endangers the public peace or health, or which openly outrages public decency, for which no other punishment is expressly prescribed by this chapter, is guilty of a misdemeanor; but nothing in this chapter contained shall be so construed as to prevent any person from demanding an increase of wages, or from assembling and using all lawful means to induce employers to pay such wages to all persons employed by them, as shall be a just and fair compensation for services rendered.

THE "ANTI-PINKERTON" ACT: PROHIBITING THE APPOINTMENT OF NON-RESIDENTS AS SPECIAL OFFICERS TO PRESERVE THE PUBLIC PEACE.

PENAL LAW, CHAPTER 40 OF THE CONSOLIDATED LAWS.

§ 1845. **Special peace officers to be citizens.**—No sheriff of a county, mayor of a city, or officials, or other person authorized by law to appoint special deputy sheriffs, special constables, marshals, policemen, or other peace officers in this state, to preserve the public peace or quell public disturbance, shall hereafter, at the instance of any agent, society, association or corporation, or otherwise, appoint as such special deputy, special constable, marshal, police-

man, or other peace officer, any person who shall not be a citizen of the United States and a resident of the state of New York, and entitled to vote therein at the time of his appointment, and a resident of the same county as the mayor or sheriff or other official making such appointment; and no person shall assume or exercise the functions, powers, duties or privileges incident and belonging to the office of special deputy sheriff, special constables, marshal or policeman, or other peace officer, without having first received his appointment in writing from the authority lawfully appointing him.

A violation of the provisions of this section is a misdemeanor.

§ 1846. Making arrest without lawful authority.—Any person who shall, in this state, without due authority, exercise, or attempt to exercise the functions of, or hold himself out to any one as a deputy sheriff, marshal, or policeman, constable or peace officer, or any public officer, or person pretending to be a public officer, who, unlawfully, under the pretense or color of any process, arrests any person or detains him against his will, or seizes or levies upon any property, or dispossesses any one of any lands or tenements without a regular process therefor, is guilty of a misdemeanor. But nothing herein contained shall be deemed to affect, repeal or abridge the powers authorized to be exercised under sections one hundred and two, one hundred and four, one hundred and sixty-nine, one hundred and eighty-three, eight hundred and ninety-five, eight hundred and ninety-six and eight hundred and ninety-seven of the code of criminal procedure; or under section ninety of the railroad law; or under section eleven hundred and forty-seven of this chapter. All places kept for summer resorts and the grounds of racing associations in the counties of New York, Kings and Westchester, are hereby exempted from the provisions of this section.

Of the Railroad Law, § 58, under "Conductors and Trainmen as Policemen" under RAILWAY LABOR, ante.

REGULATION OF EMPLOYMENT AGENCIES, BOARDING HOUSES, ETC.*

EMPLOYMENT OFFICES IN CITIES.

[The original act (L. 1904, ch. 432, afterwards amended by L. 1906, ch. 327) from which the following sections were derived, was held to be a constitutional exercise of the police power: *People ex rel. Armstrong v. Warden of the City Prison*, 183 N. Y. 223 (1905).

The amendment of 1910 provides that said amendment "shall not affect the licenses issued pursuant to such article prior to the taking effect of this act until the expiration of such licenses or unless such licenses are terminated as provided herein. Such amendment shall not affect the tenure of office of the commissioner of licenses, the deputy commissioner of licenses or of inspectors, or of the employees to whom the enforcement of such law relative to employment agencies is now entrusted, or any action, or cause of action, arising from the provisions of article eleven of the general business law."]

GENERAL BUSINESS LAW, CHAPTER 20 OF THE CONSOLIDATED LAWS.

ARTICLE 2.

(As am'd by L. 1910, ch. 700.)

Employment Agencies.

Section 170. Application of article.

171. Definitions.

172. License required.

173. Application for license.

174. Procedure upon application; grant of license.

175. Form and contents of license.

176. Assignment or transfer of license; change of location.

177. Bonds and license fees.

178. Action on bond.

179. Registers to be kept.

180. Statements to be filed in theatrical employment agencies.

181. Card to be furnished to applicant for employment.

182. Employment contracts.

183. Theatrical employment contracts.

184. Inspection of registers, books and records.

185. Fees charged by persons conducting employment agencies.

186. Return of fees.

187. Receipt for fees paid.

188. Copies of law to be posted.

189. False or misleading advertisements and information.

190. Prohibition as to employment agencies.

191. Enforcement of provisions of this article.

192. Penalties for violations.

§ 170. Application of article.—1. This article shall apply to all cities of the state, except that the provisions hereof relating to domestic and commercial employment agencies shall not apply to cities of the third class. This article does not apply to employment agencies which procure employment for persons as teachers exclusively, or employment for persons in technical or executive positions in recognized educational institutions; to registries conducted by duly incorporated associations of registered nurses; and employment bureaus conducted by registered medical institutions or duly incorporated hospitals. Nor does such article apply to departments or

* Cf. § 156-a of the Labor Law, *ante*, regulating immigrant lodging houses.

bureaus maintained by persons for the purpose of securing help or employees, where no fee is charged.

§ 171. Definitions.—1. When used in this article the following terms are defined, as herein specified. The term "person" means and includes any individual, company, society, association, corporation, manager, contractor, sub-contractor or their agents or employees.

2. The term "employment agency" means and includes the business of conducting, as owner, agent, manager, contractor, subcontractor or in any other capacity an intelligence office, domestic and commercial employment agency, theatrical employment agency, general employment bureau, shipping agency, nurses' registry, or any other agency or office for the purpose of procuring or attempting to procure help or employment or engagements for persons seeking employment or engagements, or for the registration of persons seeking such help, employment or engagement, or for giving information as to where and of whom such help, employment or engagement may be procured, where a fee or other valuable consideration is exacted, or attempted to be collected for such services, whether such business is conducted in a building or on the street or elsewhere.

3. The term "theatrical employment agency" means and includes the business of conducting an agency, bureau, office or any other place for the purpose of procuring or offering, promising or attempting to provide engagements for circus, vaudeville, theatrical and other entertainments or exhibitions or performances, or of giving information as to where such engagements may be procured or provided, whether such business is conducted in a building, on the street or elsewhere.

4. The term "theatrical engagement" means and includes any engagement or employment of a person as an actor, performer or entertainer in a circus, vaudeville, theatrical and other entertainment, exhibition or performance.

5. The term "emergency engagement" means and includes an engagement which has to be performed within twenty-four hours from the time when the contract for such engagement is made.

6. The term "fee" means and includes any money or other valuable consideration paid or promised to be paid for services rendered or to be rendered by any person conducting an employment agency of any kind under the provisions of this article. Such term includes any excess of money received by any such person over what has been paid out by him for the transportation, transfer of baggage, or board and lodging for any applicant for employment; such term also includes the difference between the amount of money received by any such person who furnishes employees, performers or entertainers for circus, vaudeville, theatrical and other entertainments, exhibitions or performances, and the amount paid by him to the said employees, performers or entertainers whom he hires or provides for such entertainments, exhibitions or performances.

7. The term "privilege" means and includes the furnishing of food, supplies, tools or shelter to contract laborers, commonly known as commissary privileges.

§ 172. License required.—A person shall not open, keep, maintain or carry on any employment agency, as defined in the preceding section, unless he shall have first procured a license therefor as provided in this article from the mayor or the commissioner of licenses of the city in which such person

intends to conduct such agency. Such license shall be posted in a conspicuous place in said agency. Any person who shall open or conduct such an employment agency without first procuring said license shall be guilty of a misdemeanor and shall be punishable by a fine of not less than twenty-five dollars and not more than two hundred and fifty dollars, or by imprisonment for a period of not more than one year, or both, at the discretion of the court.

See requirement of registration with State Commissioner of Labor under § 155 of the Labor Law, *ante*.

§ 173. **Application for license.**—An application for such license shall be made to the mayor or commissioner of licenses, in case such office shall have been established as herein provided. Such application shall be written and in the form prescribed by the mayor or commissioner of licenses, and shall state the name and address of the applicant; the street and number of the building or place where the business is to be conducted; whether the applicant proposes to conduct a lodging house for the unemployed separate from the agency which he proposes to conduct; the business or occupation engaged in by the applicant for at least two years immediately preceding the date of the application. Such application shall be accompanied by the affidavits of at least two reputable residents of the city to the effect that the applicant is a person of good moral character.

§ 174. **Procedure upon application; grant of license.**—Upon the receipt of an application for a license the mayor or commissioner of licenses shall cause the name and address of the applicant, and the street and number of the place where the agency is to be conducted, to be posted in a conspicuous place in his public office. The said mayor or commissioner of licenses shall investigate or cause to be investigated the character and responsibility of the applicant and shall examine or cause to be examined the premises designated in such application as the place in which it is proposed to conduct such agency. Any person may file, within one week after such application is so posted in the said office, a written protest against the issuance of such license. Such protest shall be in writing and signed by the person filing the same or his authorized agent or attorney, and shall state reasons why the said license should not be granted. Upon the filing of such protest the mayor or commissioner of licenses shall appoint a time and place for the hearing of such application, and shall give at least five days' notice of such time and place to the applicant and person filing such protest. The said mayor or commissioner of licenses may administer oaths, subpoena witnesses and take testimony in respect to the matters contained in such application and protest or complaints of any character for violations of this article, and may receive evidence in the form of affidavits pertaining to such matters. If it shall appear upon such hearing or from the inspection or examination made by the said mayor or commissioner of licenses that the said protest is sustained or that the applicant is not a person of good character, or that the place where such agency is to be conducted is not a suitable place therefor, or that the applicant has not complied with the provisions of this article, the said application shall be denied and a license shall not be granted. Each application should be granted or refused within thirty days from the date of its filing. The license shall run to the first Tuesday of May next following the date thereof and no later, unless sooner

revoked by the mayor or the commissioner of licenses. No license shall be granted to a person to conduct the business of an employment agency in rooms used for living purposes or where boarders or lodgers are kept or where meals are served or where persons sleep or in connection with a building or premises where intoxicating liquors are sold to be consumed on the premises, excepting cafes and restaurants in office buildings.

§ 175. **Form and contents of license.**—Every license shall contain the name of the person licensed, a designation of the city, street and number of the house in which the person licensed is authorized to carry on the said employment agency, and the number and date of such license. Such license shall not be valid to protect any other than the person to whom it is issued or any place other than that designated in the license and shall not be transferred or assigned to any other person unless consent is obtained from the mayor or commissioner of licenses, as hereinafter provided. If such licensed person shall conduct a lodging house for the unemployed separate and apart from such agency, it shall be so designated in the license.

§ 176. **Assignment or transfer of license; change of location.**—A license granted as provided in this article shall not be assigned or transferred without the consent of the mayor or commissioner of licenses. Applications for such consent shall be made in the same manner as an application for a license, and all the provisions of sections one hundred and seventy-three and one hundred and seventy-four relating to the granting of applications for licenses, including the procedure upon such application and the posting of the names and addresses of applicants shall apply to applications for such consent. No license fee shall be required upon such assignment or transfer. The location of an employment agency shall not be changed without the consent of the mayor or commissioner of licenses, and such change of location shall be indorsed upon the license.

§ 177. **Bonds and license fees.**—1. Every person licensed under the provisions of this act to carry on the business of an employment agency shall pay to the mayor or the commissioner of licenses a license fee of twenty-five dollars before such license is issued. He shall also deposit before such license is issued, with the commissioner of licenses, in every city where there is a commissioner of licenses, or clerk of the city, a bond in the penal sum of one thousand dollars with two or more sureties or a duly authorized surety company, to be approved by the mayor or the commissioner of licenses.

2. The bond executed as provided in the preceding subdivision of this section shall be payable to the people of the city in which any such license is issued and shall be conditioned that the person applying for the license will comply with this article, and shall pay all damages occasioned to any person by reason of any misstatement, misrepresentation, fraud or deceit, or any unlawful act or omission of any licensed person, his agents or employees, while acting within the scope of their employment, made, committed or omitted in the business conducted under such license, or caused by any other violation of this article in carrying on the business for which such license is granted.

3. If at any time, in the opinion of the mayor, or the commissioner of licenses, the sureties or any of them shall become irresponsible the person holding such license shall, upon notice from the mayor or the commissioner of licenses, give a new bond, subject to the provisions of this section. The

failure to give a new bond within ten days after such notice, in the discretion of the mayor or commissioner of licenses, shall operate as a revocation of such license and the license shall be thereupon returned to the mayor or the commissioner of licenses who shall destroy the same.

§ 178. **Action on bond; suits how brought.**—All claims or suits brought in any court against any licensed person may be brought in the name of the person damaged upon the bond deposited with city by such licensed person as provided in section one hundred and seventy-seven and may be transferred and assigned as other claims for damages in civil suits. The amount of damages claimed by plaintiff, and not the penalty named in the bond, shall determine the jurisdiction of the court in which the action is brought. Where such licensed person has departed from the state with intent to defraud his creditors or to avoid the service of a summons in an action brought under this section, service shall be made upon the surety as prescribed in the code of civil procedure. A copy of such summons shall be mailed to the last known post-office address of the residence of the licensed person and the place where he conducted such employment agency, as shown by the records of the mayor or commissioner of licenses. Such service thereof shall be deemed to be made when not less than the number of days shall have intervened between the dates of service and the return of the same as provided by the civil procedure for the particular court in which suit has been brought.

§ 179. **Registers to be kept.**—It shall be the duty of every licensed person to keep a register, approved by the mayor or the commissioner of licenses, in which shall be entered, in the English language, the date of the application for employment; the name and address of the applicant to whom employment is promised or offered, or to whom information or assistance is given in respect to such employment; the amount of the fee received, and whenever possible, the names and addresses of former employers or persons to whom such applicant is known. Such licensed person shall also enter in the same or in a separate register, approved by the mayor or commissioner of licenses, in the English language, the name and address of every applicant accepted for help, the date of such application, kind of help requested, the names of the persons sent, with the designation of the one employed, the amount of the fee received and the rate of wages agreed upon. No such licensed person, his agent or employees, shall make any false entry in such registers. It shall be the duty of every licensed person, whenever possible, to communicate orally or in writing with at least one of the persons mentioned as references for every applicant for work in private families, or employed in a fiduciary capacity, and the result of such investigation shall be kept on file in such agency; provided, that if the applicant for help voluntarily waives in writing such investigation of references by the licensed person, failure on the part of the licensed person to make such investigation shall not be deemed a violation of this section.

See also requirements as to register in § 155 of the Labor Law, *ante*.

§ 180. **Statements to be filed in theatrical employment agencies.**—Every licensed person conducting a theatrical employment agency, before making a theatrical engagement, except an emergency engagement, for any person with any applicant for services in any such engagement shall prepare and file in such agency a written statement signed and verified by such licensed

person setting forth how long the applicant has been engaged in the theatrical business. Such statement shall set forth whether or not such applicant has failed to pay salaries or left stranded any companies, in which such applicant and, if a corporation any of its officers or directors, have been financially interested during the five years preceding the date of application and, further, shall set forth the names of at least two persons as references. If such applicant is a corporation, such statement shall set forth the names of the officers and directors thereof and the length of time such corporation or any of its officers have been engaged in the theatrical business and the amount of its paid-up capital stock. If any allegation in such written, verified statement is made upon information and belief, the person verifying the statement shall set forth the sources of his information and the grounds of his belief. Such statement so on file shall be kept for the benefit of any person whose services are sought by any such applicant as employer.

§ 181. Card to be furnished to applicant for employment.—Every such licensed person shall give to each applicant for domestic or commercial employment a card or printed paper containing the name of the applicant, the name and address of such employment agency and the written name and address of the person to whom the applicant is sent for employment; kind of services to be performed; rate of wages or compensation; the time of such services, if definite, and if indefinite, to be so stated; and the name and address of person authorizing the hiring of such applicant, and the cost of transportation if the services are required outside of the city where such agency is located.

§ 182. Employment contract.—A licensed person shall not induce or attempt to induce any employee to leave his employment with a view to obtaining other employment through such agency. Whenever such licensed person or any other acting for him, agrees to send one or more persons to work as contract laborers in any one place outside the city in which such agency is located, the said licensed person shall file with the mayor or commissioner of licenses, within five days after the contract is made, a statement containing the following items: Name and address of the employer; name and address of the employee; nature of the work to be performed, hours of labor; wages offered, destination of the persons employed, and terms of transportation. A duplicate copy of this statement shall be given to the applicant for employment, in a language which he is able to understand, before he leaves the city.

§ 183. Theatrical employment; contracts.—Every licensed person who shall procure for or offer to an applicant a theatrical engagement shall have executed in duplicate a contract containing the name and address of the applicant; the name and address of the employer of the applicant and of the person acting for such employer in employing such applicant; the time and duration of such engagement; the amount to be paid to such applicant; the character of entertainment to be given or services to be rendered; the number of performances per day or per week that are to be given by said applicant; if a vaudeville engagement, the name of the person by whom the transportation is to be paid, and if by the applicant, either the cost of the transportation between the places where said

entertainment or services are to be given or rendered, or the average cost of transportation between the places where such services are to be given or rendered; and if a dramatic engagement the cost of transportation to the place where the services begin if paid by the applicant; and the gross commission or fees to be paid by said applicant and to whom. Such contracts shall contain no other conditions and provisions except such as are equitable between the parties thereto and do not constitute an unreasonable restriction of business. The form of such contract shall be first approved by the mayor or commissioner of licenses and his determination shall be reviewable by certiorari. One of such duplicate contracts shall be delivered to the person engaging the applicant and the other shall be retained by the applicant. The licensed person procuring such engagement for such applicant shall keep on file or enter in a book provided for that purpose a copy of such contract.

§ 184. Inspection of registers, books and records.—All registers, books, records and other papers required to be kept pursuant to this article in any employment agency shall be open at all reasonable hours to the inspection of the mayor or commissioner of licenses, and to any duly authorized agent or inspector of such mayor or commissioner.

See also power of State Commissioner of Labor to inspect in §§ 153 and 155 of Labor Law, *ante*.

§ 185. Fees charged by persons conducting employment agencies.—1. The gross fees of licensed persons charged to applicants for employment as lumbermen, agricultural hands, coachmen, grooms, hostlers, seamstresses, cooks, waiters, waitresses, scrub-women, laundresses, maids, nurses (except professionals), and all domestics and servants, unskilled workers and general laborers, shall not in any case exceed ten per centum of the first month's wages, and for all other applicants for employment, shall not exceed the amount of the first week's wages or salary unless the period of employment is for at least one year, and at a yearly salary, and in that event the gross fee charged shall not exceed five per centum of the first year's salary, except when the employment or engagement is of a temporary nature, not to exceed in any single contract one month, then the fee shall not exceed ten per centum of the salary paid.

2. The gross fees of licensed persons charged to applicants for theatrical engagements by one or more such licensed persons, individually or collectively procuring such engagements, except vaudeville or circus engagements, shall not in any case exceed the gross amount of five per centum of the wages or salary of the engagement when the engagement is less than ten weeks; and an amount of five per centum of the salary or wages per week for ten weeks of a season's engagement constituting ten weeks or more. The gross fees charged by such licensed persons to applicants for vaudeville or circus engagements by one or more such licensed persons, individually or collectively, procuring such engagement, shall not in any case exceed five per centum of the salary or wages paid. The gross fees for a theatrical engagement, except an emergency engagement, shall be due and payable at the end of each week of the engagement, and shall be based on the amount of compensation actually received for such engagement, except when such engagement is unfulfilled through any act within the control of the applicant for such engagement.

3. A licensed person conducting any employment agency under this article shall not receive or accept any valuable thing or gift as a fee or in lieu thereof. No such licensed person shall divide or share, either directly or indirectly, the fees herein allowed, with contractors, subcontractors, employers or their agents, foremen or any one in their employ, or if the contractors, subcontractors or employers be a corporation, any of the officers, directors or employees of the same to whom applicants for employment or theatrical engagements are sent.

4. Any person violating the provisions of this section shall be deemed guilty of a misdemeanor and upon conviction of any licensed person for any violation thereof shall be subject to a fine of not less than twenty-five dollars and not more than two hundred and fifty dollars, or imprisonment for not more than one year, or both, at the discretion of the court, and the mayor or commissioner of licenses shall forthwith cancel and revoke the license of such person.

§ 186. Return of fees.—1. In case a person applying for help or employment of a domestic or commercial employment agency shall not accept help or obtain employment through such agency, then the licensed person conducting such agency shall on demand repay the full amount of the said fee, allowing three days' time to determine the fact of the applicant's failure to obtain help or employment. If an employee furnished fails to remain one week in the situation, a new employee shall be furnished to the applicant for help if he so elects, or three-fifths of the fee returned, within four days of demand; provided said applicant for help notifies said licensed person within thirty days of the failure of the applicant to accept the position or of the applicant's discharge for cause. If the employee is discharged within one week without said employee's fault another position shall be furnished, or three-fifths of the fee returned to the applicant for employment if he so elects. Failure of said applicant for help to notify said licensed person that such has been obtained through means other than said agency shall entitle said licensed person to retain or collect three-fifths of the said fee.

2. No such licensed person shall send out any applicant for employment without having obtained, either orally or in writing, a bona fide order therefor, and if it shall appear that no employment of the kind applied for existed at the place to which said applicant was directed, the said licensed person shall refund to such applicant within three days of demand any sums paid by said applicant for transportation in going to and returning from said place, and all fees paid by said applicant.

§ 187. Receipt for fees paid.—It shall be the duty of every such licensed person conducting an employment agency to give to every applicant for employment from whom a fee shall be received a receipt in which shall be stated, the name of said applicant, the date and amount of the fee, and the purpose for which it was paid, and to every applicant for help a receipt stating the name and address of said applicant, the date and amount of the fee, and the kind of help to be provided. Every such receipt, excepting those given by theatrical employment agencies, shall have printed on the back thereof a copy of sections one hundred and eighty-five, one hundred

and eighty-six, one hundred and eighty-seven, in the English language and in any language which the person to whom the receipt is issued can understand.

§ 188. Copies of law to be posted.—Every licensed person shall post in a conspicuous place in each room of such agency sections one hundred and seventy-eight, one hundred and eighty, one hundred and eighty-one, one hundred and eighty-two, one hundred and eighty-three, one hundred and eighty-five, one hundred and eighty-six, one hundred and eighty-seven and one hundred and eighty-nine, of this article, which shall be printed in large type in languages in which persons commonly doing business with such office can understand. Such printed law shall also contain the name and address of the officer charged with the enforcement of this article in such city.

§ 189. False or misleading advertisements and information.—No licensed person conducting any employment agency shall publish or cause to be published any false or fraudulent or misleading information, representation, notice or advertisement; all advertisements of such employment agency by means of cards, circulars, or signs and in newspapers and other publications, and all letter heads, receipts and blanks shall be printed and contain the licensed name and address of such employment agent and the word agency, and no licensed person shall give any false information, or make any false promise or false representation concerning an engagement or employment to any applicant who shall register or apply for an engagement or employment or help.

§ 190. Prohibitions as to employment agencies.—No licensed person conducting an employment agency shall send or cause to be sent any female as a servant, employee, inmate, entertainer or performer, or any male as an employee or entertainer to any place of bad repute, house of ill-fame, or assignation house, or to any house or place of amusement kept for immoral purposes, or place resorted to for the purposes of prostitution, or gambling house, the character of which such licensed person could have ascertained upon reasonable inquiry. No licensed person shall send out any female applicant for employment, without making a reasonable effort to investigate the character of the employer. Nor shall any such licensed person send any female as an entertainer or performer to any place where such female will be required or permitted to sell, offer for sale or solicit the sale of intoxicating liquors to those present or assembled as an audience or otherwise in such place or in any rooms or buildings adjacent thereto. No licensed person shall knowingly permit any persons of bad character, prostitutes, gamblers, intoxicated persons or procurers to frequent such agency. No licensed person shall accept any application for employment made by or on behalf of any child or shall place or assist in placing any such child in any employment whatever in violation of article twenty of the education law, relating to compulsory education, and in violation of the labor law. No licensed person, his agents, servants or employees shall induce or compel any person to enter such agency for any purpose, by the use of force or by taking forcible possession of said person's property. No person shall procure or offer to procure help or employment in rooms or on premises where intoxicating liquors are sold to be consumed on the premises whether or not dues or a fee or privilege are exacted, charged or received directly or indirectly, except in

office buildings in which are located cafes and restaurants. For the violation of any of the foregoing provisions of this section the penalties shall be a fine of not less than twenty-five dollars, and not more than two hundred and fifty dollars, or imprisonment for a period of not more than one year, or both, at the discretion of the court.

§ 191. Enforcement of provisions of this article.—1. In cities of the second and third class and in cities of the first class having a population of less than three hundred thousand, this article, so far as it relates to such cities, shall be enforced by the mayor or an officer appointed by him.

2. In cities of the first class having a population of three hundred thousand or more the enforcement of this article so far as it relates to such cities shall be intrusted to a commissioner to be known as a commissioner of licenses, who shall be appointed by the mayor, and whose salary, together with those of a deputy commissioner, and inspectors to be appointed by him, shall be fixed by the board of estimate and apportionment. Said commissioner of licenses and deputy commissioner shall have no other occupation or business. The commissioner of licenses shall appoint inspectors, who shall make at least bi-monthly visits to every such agency. Said inspectors shall have suitable badges which they shall exhibit on demand of any person with whom they may have official business. Such inspectors shall see that all the provisions of this article, so far as it relates to such cities, are complied with, and shall have no other occupation or business.

3. Complaints against any such licensed person shall be made orally or in writing to the mayor or commissioner of licenses, or be sent in an affidavit form without appearing in person, and reasonable notice thereof, not less than one day, shall be given in writing to said licensed person by serving upon the licensed person either personally or by leaving the same with the person in charge of his office, a concise statement of the facts constituting the complaint, and a hearing pursuant to the powers granted to the mayor or commissioner of licenses as provided in section one hundred and seventy-four shall be had before the mayor or commissioner of licenses within one week from the date of the filing of the complaint and no adjournment shall be taken for a period longer than one week. A daily calendar of all hearings shall be kept by the mayor or commissioner of licenses and shall be posted in a conspicuous place in his public office for at least one day before the date of such hearings. The mayor or commissioner of licenses shall render his decision within eight days from the time the matter is finally submitted to him. Said mayor or commissioner of licenses shall keep a record of all such complaints and hearings. The said mayor or commissioner of licenses may refuse to issue and shall revoke any license for any good cause shown, within the meaning and purpose of this article and when it is shown to the satisfaction of the mayor or commissioner of licenses that any licensed person is guilty of any immoral, fraudulent or illegal conduct in connection with the conduct of said business, it shall be the duty of the mayor or the commissioner of licenses to revoke the license of such person; but notice of the charges shall be presented and reasonable opportunity shall be given said licensed person to defend himself. Whenever said mayor or commissioner of licenses shall refuse to issue or shall revoke the license of an employment agency, said determination may be reviewed by certiorari. Whenever for any cause such license is revoked, said mayor or commissioner of licenses shall not issue another license to said licensed person or his repre-

sentative or to any person with whom he is to be associated in the business of furnishing employment, help or engagements. In the absence of the commissioner of licenses, the deputy commissioner of licenses may conduct hearings and act upon applications for licenses, and revoke such licenses.

§ 192. Penalties for violations.—The violation of any provision of this article except as otherwise provided in this article shall be punishable by a fine not to exceed twenty-five dollars, and any city magistrate, police justice, justice of the peace, or any inferior magistrate having original jurisdiction in criminal cases, shall have power to impose said fine, and in default of payment thereof to commit the person so offending for a period not exceeding thirty days. The said mayor or commissioner of licenses or any person, his agent or attorney, aggrieved because of the violations of this article shall institute criminal proceedings for its enforcement before any court of competent jurisdiction.

PENAL LAW, CHAPTER 40 OF THE CONSOLIDATED LAWS.

§ 950. False statements in regard to employment.—Any person, firm, association or corporation, or any employee or agent thereof, who makes to any person furnishing or seeking employment any statement which is false, knowing the same to be false, in regard to any employment, work or situation, its nature, location, duration, wages, or salary attached thereto, or the circumstances surrounding the said employment, work, or situation, or who shall offer or hold himself out as in a position to secure or furnish employment without having an order therefor or such employment to be filled or shall misrepresent any other material matter in connection with said employment, work, or situation, and by reason of such statement, offer, holding out or misrepresentation, any person shall seek the employment, work or situation, in respect to which such statement, offer, holding out or misrepresentation was made, shall be guilty of a misdemeanor. [*Added by L. 1911, ch. 575.*]

REGULATING THE SALE OF TRANSPORTATION TICKETS AND THE TAKING OF DEPOSITS.

GENERAL BUSINESS LAW, CHAPTER 20 OF THE CONSOLIDATED LAWS.

ARTICLE 10.

[*As Amended by L. 1910, ch. 349, in effect Sept. 1, 1910.*]

Ticket Agents.

Section 150. Licenses to sell transportation tickets or orders for transportation, to or from foreign countries.

151. Bonds.

152. Revocation of licenses.

153. Penalties for conducting business without license, et cetera.

154. Discharge and renewal of bonds.

§ 150. Licenses to sell transportation tickets or orders for transportation to or from foreign countries.—No person, firm, or corporation, other than railroad companies or the agents of such railroad companies or steamship companies duly appointed in writing, shall hereafter engage within this state in the sale of steamship tickets or orders for transportation to or from for-

eign countries or shall advertise or hold themselves out as authorized or entitled to sell such steamship tickets or orders for transportation without having first procured a license to carry on such business from the comptroller. Such license shall be granted on an application designating the place where the business for which a license is sought is to be carried on, and shall be accompanied by satisfactory proof by affidavit of good moral character. Such license shall be granted upon the payment to the comptroller of a fee of twenty-five dollars, and shall be renewed on payment of a like fee annually. Every license shall contain the name of the licensee, a designation of the city, street and number of the house in which the licensee is authorized to carry on business, and the number and date of such license. Such license shall not be transferred or assigned, nor authorize the licensee or his agents to transact business or to advertise or hold himself or themselves out as authorized and entitled to transact such business at any place other than that designated in the license, except with the written approval of the comptroller. The license shall run to the first day of September next ensuing the date thereof, and no longer, unless sooner revoked by the comptroller. [*As am'd by L. 1911, ch. 578.*]

§ 151. **Bonds.**—The comptroller shall require the applicant for a license to file with the application therefor a bond, in due form, to the people of the state of New York, in the penal sum of two thousand dollars, in cities of the first class, and of one thousand dollars in all other localities, with two or more sufficient sureties, who shall be freeholders within the state of New York, conditioned that the obligor will duly account for all moneys received for steamship tickets or orders for transportation to or from foreign countries, and that the obligor will not be guilty of any fraud or misrepresentation to any purchaser of such tickets or orders. The bond of a surety company approved by the comptroller, or cash, may be accepted in lieu of surety. The comptroller shall keep a book or books wherein shall be entered in alphabetical order all licenses granted and all bonds received by him as provided in this article, the date of the issuance of said licenses and of the filing of such bonds, the name or names of the principals, with a statement of the place of business, and the names of the sureties upon the bonds so filed, which records shall be open to public inspection. A suit to recover on the bond required to be filed under the provisions of this article may be brought by or on the relation of any party aggrieved in a court of competent jurisdiction, and in the event that the obligor on said bond has been guilty of fraud or misrepresentation, may be enforced by the comptroller in the name of the people of the state of New York to recover the full penalty thereof. The fees received for the issuance of any license provided for in this article and the money reserved as the penalty on any bond, enforced by the comptroller, shall be paid into the state treasury, to be used to defray the miscellaneous expenses of the comptroller.

§ 152. **Revocation of licenses.**—In the event that any licensee shall be guilty of any fraud or misrepresentation, or shall fail to account for any moneys paid in connection with the sale of any ticket or order for transportation by steamship, the comptroller shall be empowered, on giving such notice to the licensee as he shall deem sufficient, and an opportunity to answer any charges made against such licensee, to revoke the license under which such business shall be carried on.

§ 153. Penalties for conducting business without license, et cetera.—Any person, firm or corporation carrying on the business specified in this article without having obtained from the comptroller a license therefor, or who shall carry on such business after the revocation of a license to carry on such business, shall be guilty of a misdemeanor.

§ 154. Discharge and renewal of bonds.—The provisions of section twenty-nine-a of this chapter as to discharge and renewal of bonds shall be applicable to any bond given pursuant to this article.

Cf. § 29-a under Regulation of Private Banking below.

Ch. 348 of L. 1910 (see below) repealed old article 10 but specified that such repeal should not affect any existing or accrued right or liability.

PENAL LAW, CHAPTER 40 OF THE CONSOLIDATED LAWS.

§ 1563. Advertising as agent, without written authorization; false or misleading information.—No person issuing, selling or offering to sell any passage ticket or any instrument giving or purporting to give any right, either absolutely or upon any condition or contingency, to a passage or conveyance upon any vessel, or a berth or stateroom in any vessel, shall hold himself out to be or advertise himself in any way as the agent of the owner or consignees of such vessel or line, unless he has received authority in writing therefor, specifying the name of the company, line or vessel for which he is authorized to act as agent and the city, town or village, together with the street, and the street number in which his office is kept for the sale of tickets, and unless such written authorization is conspicuously displayed in such office. Provided that this section shall not apply to the sale of passage tickets on board any such vessel or to the offices of the actual owners or consignees of such vessel. No person issuing, selling or offering to sell or holding himself out as being authorized to sell any such passage ticket or instrument giving or purporting to give any such right to passage or conveyance shall give or cause to be given any false or misleading information or shall print, publish, distribute or circulate or cause to be printed, published, distributed or circulated any false or misleading advertisement, circular, circular letter, pamphlet, card, hand-bill or other printed paper or notice in regard to said passage, ticket or instrument or the passage or voyage to which it entitles or purports to entitle its owner, purchaser or holder or line over which, or the vessel for which such passage is sold or offered or as to his agency for such line or vessel. [*As am'd by L. 1911, ch. 415.*]

§ 1564. Issuance of order or other instrument securing passage by vessel from foreign port to this state; what to contain.—No person agreeing to furnish or secure for any other person, for a consideration, passage by vessel from any foreign port to any port in this state shall issue any advice, order, certificate or other instrument purporting to entitle one or more persons to a passage ticket or other evidence of a right of passage, unless every such advice, order, certificate or instrument shall be signed or countersigned by a duly appointed agent as provided in section fifteen hundred and sixty-three, of the vessel or line over which said advice, order, certificate or other instrument is held out to be good to secure such passage ticket or other evidence of a right of passage. Every such order, advice, certificate or other instrument and every receipt for money paid for or on account of any such advice, order, certificate or other instrument, shall contain a statement of the amount

paid or to be paid for such passage; the name, address and age of the person for whom intended; the name of the company or line, if any, to which the vessel on which passage is to be made belongs; the place from which such passage is to commence; the place where such passage is to terminate; the name of the person purchasing such advice, order, certificate or other instrument, and such advice, order, certificate or other instrument must be signed by the person who issues it.

§ 1565. Punishment for violation of two preceding sections.—Any person violating any of the provisions of section fifteen hundred and sixty-three, or fifteen hundred and sixty-four, shall be guilty of a misdemeanor and for a second or further violation shall be guilty of a felony.

As to protection of immigrants against possible extortion or ill-treatment on the part of transportation companies, see Penal Law, § 1561, which fixes a maximum rate of 1¼ cents per mile.

§ 1572. Soliciting the surrender of tickets a misdemeanor.—Any hotel, boarding-house, lodging-house or restaurant owner, proprietor, manager, clerk or other employee or any runner, guide, porter or solicitor who solicits in any manner any immigrant or steerage passenger inward or outward bound, having a railroad or steamship ticket, order or other instrument entitling or purporting to entitle such passenger to transportation or conveyance on any railroad or steamship, to surrender such ticket, order or other instrument to such hotel, boarding-house, lodging-house or restaurant owner, proprietor, manager or other employee or to any runner, guide, porter or solicitor or any other person for the purpose of detaining any such immigrant or steerage passenger in any such hotel, boarding-house, lodging-house, or restaurant, shall be guilty of a misdemeanor. [*Added by L. 1911, ch. 540.*]

REGULATING PRIVATE BANKING.

GENERAL BUSINESS LAW. CHAPTER 20 OF THE CONSOLIDATED LAWS.

ARTICLE 3-a.

[*As added by L. 1910, ch. 348, in effect September 1, 1910. Held constitutional by U. S. Supreme Court in Engel v. O'Malley, 182 Fed. Rep. 365.*]

Private Banking.

Section 25. Licenses, bonds and deposits.

- 26. Books to be kept and records to be made; revocation of licenses.
- 27. Penalties for conducting business without license, et cetera.
- 28. Perjury.
- 29. Penalty for failure to make reports.
- 29-a. Discharge and renewal of bonds, substitution of securities, et cetera.
- 29-b. Burden of proof in actions against licensee.
- 29-c. Time within which money is to be transmitted.
- 29-d. Exceptions.
- 29-e. Construction of this article.
- 29-f. Additional penal provision.
- 29-g. Bureau of licenses.

§ 25. Licenses, bonds and deposits.—Except as provided in section twenty-nine-d, no individual or partnership shall hereafter engage directly or indirectly in the business of receiving deposits of money for safe-keeping or for the purpose of transmission to another or for any other purpose in cities of the first class without having first obtained from the comptroller a license

to engage in such business. Before receiving such license the applicant therefor shall file with the comptroller a written statement in the form to be prescribed by the comptroller and verified by the individual or members of the firm making the application, showing the amount of the assets and liabilities of the applicant, designating the place where the applicant proposes to engage in business, that the applicant has been, or if the applicant shall constitute a partnership, that a majority of the members thereof having a controlling interest in the business of such partnership have been continuously for a period of five years immediately preceding the date of such application resident in the United States. Such applicant shall at the same time deposit with the comptroller five thousand dollars if the applicant is engaged only in the business of receiving money for transmission to another and otherwise ten thousand dollars in money or in securities which shall consist of bonds of the United States, of this state or of any municipality thereof, or other bonds approved by the comptroller, and if a deposit of securities shall be so made in lieu of money, the comptroller shall thereafter require the applicant to maintain such deposit at all times at a value which shall equal the sum that the applicant is required by this section to deposit. In addition thereto there shall be presented to the comptroller a bond to the people of the state of New York executed by the applicant and by a surety company approved by the comptroller, conditioned upon the faithful holding of all moneys that may be deposited with the applicant, in accordance with the terms of the deposit and the repayment of such moneys so deposited and upon the faithful transmission of any money which shall be delivered to such applicant for transmission to another, and in the event of the insolvency or bankruptcy of the applicant, upon the payment of the full amount of such bond to the assignee, receiver or trustee of the applicant, as the case may require, for the benefit of the persons making such deposits and of such persons as shall deliver money to the applicant for transmission to another. The penalty of the bond shall be five thousand dollars if the applicant is engaged only in the business of receiving money for transmission to another; in all other cases the amount of such penalty shall, if the deposits of the applicants do not exceed twenty-five thousand dollars, be five thousand dollars, and if in excess thereof, the penalty of such bond shall be increased five thousand dollars for each additional twenty-five thousand dollars of deposits, or fraction thereof, not exceeding, however, a maximum penalty of fifty thousand dollars. In lieu of the aforesaid bond the applicant may deposit and the comptroller shall accept money and securities of the character above described. The money and securities so deposited shall be held on the conditions specified in the aforesaid bond. If securities be deposited in lieu of the aforesaid bond, and be accepted as hereinafter provided, the comptroller shall require the applicant to maintain such deposit at a value equal to the amount fixed as the penalty of the bond in lieu of which such money and securities shall be so deposited. Upon the receipt of such application the comptroller shall cause to be posted upon a bulletin to be maintained by him in his office in a place accessible to the general public, at noon of the succeeding Friday the name of the applicant and whether individual or partnership, and the proposed business address designated in the application. After notice of the application shall have been so posted for a period of two weeks he may in his discretion approve or disapprove the application. In the event of his approval he shall accept the

money, securities and bond, if there be one, and hold them for the purposes herein set forth, and shall issue a license authorizing the applicant to carry on the aforesaid business at the place designated in the application and to be specified in the license certificate. For such license the licensee shall pay a fee of fifty dollars. Such license shall not be transferred or assigned. It shall not authorize the transaction of business at any place other than that described in the license certificate, except with the written approval of the comptroller. Immediately upon the receipt of the license certificate issued by the comptroller pursuant to this article the licensee named therein shall cause such license certificate to be posted and at all times conspicuously displayed in the place of business for which it is issued, so that all persons visiting such place may readily see the same. It shall be unlawful for any person or partnership holding such license certificate to post such certificate or to permit such certificate to be posted upon premises other than those designated therein or to which it has been transferred pursuant to the provisions of this article, or knowingly to deface or destroy any such license certificate. If it shall be established to the satisfaction of the comptroller in accordance with rules and regulations by him prescribed, that an unexpired license certificate issued in accordance with the provisions of this article has been lost or destroyed without fault on the part of the holder, the comptroller shall issue a duplicate license therefor. The money and securities deposited with the comptroller as herein provided and the money which in case of default shall be paid on the aforesaid bond by any applicant or the surety thereof, shall constitute a trust fund for the benefit of the depositors of the licensee and of such persons as shall deliver money to such licensee for transmission to another, and such beneficiaries shall be entitled to an absolute preference as to such money or securities, over all general creditors of the licensee. Such money and securities shall in the event of the insolvency or bankruptcy of the licensee be delivered by the comptroller on the order or judgment of a court of competent jurisdiction to the assignee, receiver or trustee of the licensee designated in such order or judgment. The comptroller shall keep a book or books in which the licenses granted and the bonds filed shall be entered in alphabetical order, together with a statement of the date of the issuance of the license, the name or names of the principals, the place where the business licensed is to be transacted and the name of the surety company upon the bond filed, and the amount of all moneys and a description of all securities deposited, which record shall be open to public inspection. The comptroller shall cause to be printed annually on the first day of January and distributed upon application, a list of all licenses granted and remaining unrevoked. The comptroller shall from time to time pay over to each such licensee all moneys received by him as interest upon any moneys or securities deposited in accordance with the provisions of this article. [As am'd by L. 1911, ch. 393.]

§ 26. Books to be kept and records to be made; revocation of licenses.— Each licensee shall keep books of account showing full and complete records of all business transacted and a full statement of all assets and liabilities, and shall four times in each year as of such days as the comptroller shall designate by a notice to be posted on the bulletin in his office and by written notice delivered at the place of business of such licensee or deposited in the post-office in a postpaid wrapper directed to him at such place of business,

file in the comptroller's office within ten days after the date of such notice, a written statement under oath in such form as shall be prescribed by the comptroller, showing the amount of the assets and liabilities of the licensee, which report shall be accessible to the public at all reasonable times. The license issued shall be revocable at all times by the comptroller for cause shown, and in the event of such revocation or of a surrender of such license, no refund shall be made in respect of any license fee paid under the provisions of this article. Every license certificate shall be surrendered to the comptroller within twenty-four hours after notice in writing to the holder that such license has been revoked. In case of the revocation of such license the money and securities and the bond, if there be one, received from the licensee, shall continue to be held by the comptroller, until otherwise directed by the order or judgment of a court of competent jurisdiction.

§ 27. Penalties for conducting business without license, et cetera.—Any person or partnership carrying on the business specified in section twenty-five of this article without having obtained from the comptroller a license therefor, or who shall carry on such business after the revocation of a license to carry on such business, or who, without such license shall, on any sign, letter-head, advertisement or publication of any kind use the word "banking" or "banker" or any equivalent term, in any language, in connection with any business whatsoever, or who shall fail to display the license certificate as provided in section twenty-five hereof, or who shall fail to keep books of account or to make the reports as herein provided, or any person or partnership not having a license who shall advertise or publish in any manner whatsoever, either orally or in writing, any statement intended to convey or actually conveying the idea or impression that such licensee is in any way under the supervision of this state or of any officer thereof, or that this state or any officer thereof has passed in any way whatsoever upon the responsibility, solvency or qualifications of such licensee to engage in such business, or that this state or any officer thereof has examined any accounts of said licensee or has in any way certified that such licensee is in any way a fit person to carry on such business, shall be guilty of a misdemeanor. [*As am'd by L. 1911, ch. 393.*]

§ 28. Perjury.—Any person who in any application for a license presented to the comptroller, or in any report made under this article, or on any examination or inquiry pursuant to section twenty-nine-e hereof, shall swear falsely as to the nature or value of his assets, or the amount of his liabilities or in any other particular, and any person who in any affidavit made under section twenty-nine-d of this article shall swear falsely as to any fact therein stated is guilty of perjury. [*As am'd by L. 1911, ch. 393.*]

§ 29. Penalty for failure to make reports.—Any person or partnership who shall fail to make any report required by this article within the time specified for the same, shall forfeit to the people of the state of New York the sum of one hundred dollars for every day that such report shall be delayed or withheld. The money forfeited under this section shall be recovered in an action brought in the name of the people of the state, and with all moneys received as fees for the issuance of the licenses provided for herein shall be paid into the state treasury to the credit of the general fund.

§ 29-a. Discharge and renewal of bonds, substitution of securities, et cetera. The surety in a bond given pursuant to this article may give notice to the comptroller in writing requesting to be released from responsibility on account of any future breach of the conditions of the bond, and that the principal in the bond be required to give a new surety, and thereupon the comptroller shall give notice in writing directed to the principal upon said bond at the place designated by him for the transaction of business requiring him within ten days from a day therein specified to file a new bond in the form required therein with a new surety, approved by the comptroller, or money or securities in lieu thereof, and upon the filing of such new bond or such money or securities in lieu thereof within the time specified, but not before, the surety upon the old bond shall be discharged from liability upon the bond given by it for any subsequent act or default of the principal. Whenever money or securities are deposited with the comptroller pursuant to this article, he may in his discretion permit the substitution of securities for money, or of money for securities, in whole or in part, or of money or securities for any bond, or of a bond for money or securities deposited (other than the money or securities which the licensee is required by section twenty-five hereof to keep at all times on deposit with the comptroller), or the withdrawal of securities deposited and the substitution of others of equal value in their place, and if the total value of securities become substantially impaired he shall require the deposit of money or additional securities sufficient to cover the impairment in value. In the event of the failure of such principal to file a new bond or such money or securities in lieu thereof, or to deposit money or additional securities to cover any impairment of value of securities theretofore deposited, within the time specified, the comptroller shall forthwith revoke the license of such principal. In the event that the licensee shall at any time discontinue the business license or with respect to which a bond shall have been filed or money or securities shall have been deposited pursuant to this article, the comptroller on the order or judgment of a court of competent jurisdiction may cancel the bond filed by the licensee and return to the licensee all moneys and securities deposited. [*As am'd by L. 1911, ch. 393.*]

§ 29-b. Burden of proof in actions against licensee.—In an action against a licensee to recover money deposited with such licensee for transmission, the burden of proving the transmission to and receipt of the money by the person to whom such money is directed to be paid shall be upon the licensee to whom such money was delivered for transmission. Proof by a properly authenticated affidavit of such licensee or his duly authorized agent, showing the transmission of such money to the person to whom the same was to be transmitted, or to the correspondent of the licensee to whom such money may have been transmitted for payment to the person to whom such money was to be paid, together with a properly authenticated receipt signed by the consignee of such money, or in lieu of such receipt a properly authenticated affidavit of the agent of the licensee showing the fact of payment, shall be deemed sufficient evidence to shift the burden of proof to the plaintiff.

§ 29-c. Time within which money is to be transmitted.—All moneys received for transmission to a foreign country by any licensee shall be forwarded to the person to whom the same is directed to be transmitted within five days after the receipt thereof, and every person who shall fail to so forward the same, within the time specified, shall be guilty of a misdemeanor.

§ 29-d. **Exceptions.**—The foregoing provisions shall not apply (1) to any corporation or “individual banker” authorized to do business under the provisions of the banking law, nor to any association organized under the national banking act; nor (2) to any hotel-keeper who shall receive money for safe-keeping from a guest; nor (3) to any express company having contracts with railroad companies for the operation of an express service upon the lines of such railroad companies nor to any telegraph company receiving money for transmission; nor (4) to any individual or partnership receiving money on deposit for safe-keeping or for transmission to others, or for any other purpose, where the average amount of each sum received on deposit, or for transmission, by such individual or partnership in the ordinary course of business, during the fiscal year preceding the date of the affidavit hereinafter specified, shall not be less than five hundred dollars, proof of which fact by affidavit to the satisfaction of the comptroller shall be made by the individual or a member of the partnership seeking exemption hereunder, whenever thereunto requested by the comptroller; nor (5) to any individual or partnership who would otherwise be required to comply with section twenty-five of this article who shall file with the comptroller a bond in the sum of one hundred thousand dollars, approved by the comptroller as to form and sufficiency, for the purpose and conditioned as in said section prescribed, where the business is conducted in a city having a population of one million or over and if conducted elsewhere in the state such bond shall be in the sum of fifty thousand dollars; or in lieu thereof money or securities approved by the comptroller of the same amount. The provisions of section twenty-nine-a shall be applicable to such bond, or deposit of money or securities. [*As am'd by L. 1911, ch. 393.*]

§ 29-e. **Examination by comptroller; penalty for interference therewith; proceedings by attorney-general.**—1. Whenever the comptroller shall deem it expedient, he may, either personally or by one of his deputies, or by examiners appointed by him, examine every applicant for a license or any licensee hereunder with respect to the nature and value of his assets, the manner in which the same are invested, the amount and character of his liabilities, and the conditions under which his business is conducted. For the purpose of such examination the comptroller, his deputies and examiners, shall have free access to the vaults, safes, books, papers and securities of such applicant or licensee, and shall be permitted to examine the same to make inventories, statements of accounts and transcripts from such books and papers. The person making such examination may summon said applicant or licensee, and any other witnesses who may be deemed necessary and examine them under oath with respect to the matters aforesaid, and for that purpose may administer oaths. It shall be the duty of the person conducting such examination to file the testimony taken, together with such inventories, statements of account and transcripts, in the office of the comptroller.

2. Any person who shall willfully fail or refuse to appear and testify when so required, or who shall interfere with or obstruct such examination, or prevent access to the aforesaid vaults, safes, books, papers and securities, or fail to comply with any requirement of the person making such examination, is guilty of a misdemeanor.

3. Whenever it shall appear that any licensee hereunder is insolvent or that the condition of the business conducted by him is such as to render its continuance hazardous, or that such licensee has failed to comply with any

of the provisions hereof, the comptroller shall report the facts to the attorney-general, who shall thereupon institute an action in the supreme court to wind up the business so licensed and to restrain the licensee from conducting the same, and in such action the court may appoint a temporary receiver to enforce the bond given under section twenty-five hereof, to take possession of the property and effects of the licensee, to convert them into money, and to hold the same subject to the direction of the court. [*As am'd by L. 1911, ch. 393.*]

§ 29-f. **Additional penal provision.**—Any licensee who shall violate any of the provisions of this article the violation of which has not hereinbefore been expressly made a misdemeanor, or a felony, shall be guilty of a misdemeanor.

§ 29-g. **Bureau of licenses.**—The comptroller shall establish a license bureau for the purpose of complying with the provisions of this article.

Section 153 of the Labor Law, *ante*, makes it the duty of the Commissioner of Labor to co-operate in the enforcement of this law.

MAKING FRAUD BY A NOTARY A MISDEMEANOR.

PENAL LAW, CHAPTER 40 OF THE CONSOLIDATED LAWS.

§ 1820-a. Subd. 1. Any person who holds himself out to the public as being entitled to act as a notary public or commissioner of deeds, or who assumes, uses or advertises the title of notary public or commissioner of deeds, or equivalent terms in any language, in such a manner as to convey the impression that he is a notary public or commissioner of deeds without having first been appointed as notary public or commissioner of deeds, or

Subd. 2. A notary public or commissioner of deeds, who in the exercise of the powers, or in the performance of the duties of such office shall practice any fraud or deceit, the punishment for which is not otherwise provided for by this act, shall be guilty of a misdemeanor. [*As added by L. 1910, ch. 471, in effect September 1, 1910.*]

See provision for investigation of complaints concerning notaries by Commissioner of Labor in § 153 of the Labor Law, *ante*.

LICENSING OF SAILORS' BOARDING HOUSES. *

LAW OF 1882, CHAPTER 410 (THE NEW YORK CITY CONSOLIDATION ACT).

§ 2069. It shall not be lawful for any person, except a pilot or public officer, to board, or attempt to board, a vessel arriving in the port or harbor of New York before such vessel shall have been made fast to the wharf, without first obtaining leave from the master or person having charge of such vessel, or leave in writing from her owners or agents.

§ 2070. It shall not be lawful for any person to board or attempt to board any vessel arriving in or lying or being in the harbor or port of New York, with intent to supply liquors by sale, gift or otherwise, directly or indirectly, to any member of the crew employed on board of such vessel. [*As am'd by L. 1909, ch. 353.*]

§ 2071. It shall not be lawful for any person having boarded any vessel in the port of New York, to neglect or refuse to leave said vessel after having

* *Cf.* § 156-a of the Labor Law, *ante*, relative to licensing of immigrant lodging houses.

been ordered so to do by the master or person having charge of such vessel. [*As am'd by L. 1909, ch. 353.*]

§ 2072. It shall not be lawful for any person to keep, conduct, or carry on, either as owner, proprietor, agent, or otherwise, any sailors' boarding-house or sailors' hotel in the city of New York, without having the license in this chapter provided.

§ 2073. It shall not be lawful for any person not having the license in this chapter provided, or not being the regular agent, runner, or employee of a person having such a license, to invite, ask, or solicit, in the city or harbor of New York, the boarding or lodging of any of the crew employed on any vessel.

§ 2074. There is created a board denominated a board of commissioners for licensing sailors' hotels or boarding-houses in the city of New York consisting of one person selected by each of the following corporate bodies or associations, respectively, to-wit: The Chamber of Commerce of the State of New York; the American Seamen's Friend Society in New York; the New York Board of Underwriters; the Marine Society of New York; the Society for Promoting the Gospel Among Seamen in the Port of New York; the New York Maritime Association of the Port of New York; the Seamen's Church Institute of New York; the Seamen's Christian Association of the City of New York, and St. Peter's Union for Catholic Seamen. [*As am'd by L. 1909, ch. 353.*]

§ 2075. Such board shall take the application of any person applying for a license to keep a sailors' boarding-house, or sailors' hotel, in the city of New York, and upon satisfactory evidence to them of the respectability and competency of such applicant, and of the suitability of his accommodations, shall issue to him a license, which shall run to the first Tuesday of May next ensuing the date thereof and no longer, unless sooner revoked by said board, to keep a sailors' boarding-house in the city and to invite and solicit boarders for the same within the limitations of the state and federal laws relating thereto. [*As am'd by L. 1909, ch. 353.*]

§ 2076. Such board may, upon satisfactory evidence of the disorderly character of any sailors' hotel or boarding-house, licensed as hereinbefore provided, or of the keeper or proprietor of any such house, or of any force, fraud, deceit, or misrepresentation in inviting or soliciting boarders or lodgers for such house, on the part of such keeper or proprietor, or of any of his agents, runners, or employees, or of any attempt to persuade or entice or force any of the crew to desert from or to serve involuntarily on any vessel in the harbor of New York, by such keeper or proprietor, or any of his agents, runners, or employees, revoke the license for keeping such house after notice to the licensee and a hearing thereon and each member of said board is hereby authorized to administer oaths and take and receive evidence in all matters provided for herein. [*As am'd by L. 1909, ch. 353.*]

§ 2077. Every person receiving the license hereinbefore provided for shall pay to the board of commissioners aforesaid the sum of twenty-five dollars for each full year and a proportionate amount for a shorter period which amounts after deducting the actual expenses of said board incurred in the transaction of the business shall be by them applied for the relief of shipwrecked and destitute seamen. Said board shall file on or before the second Monday of January of each year, in the office of the clerk of the city and county of New York, a statement showing the number of licenses issued, the names of persons to whom issued, with name and number of the street or house licensed during

the year preceding, the amount of money received therefor, the amount and items of their disbursements, and the amount distributed by them as hereinbefore directed. [*As am'd by L. 1909, ch. 353.*]

§ 2078. The said board shall appoint a president and secretary and shall keep an office in the city of New York, and make such by-laws and regulations as may be needful for the orderly conduct of its business, not inconsistent with the constitution and laws of this state.

§ 2079. The said board shall furnish to each sailors' hotel or boarding-house keeper, licensed by them as aforesaid, one or more badges or shields, on which shall be printed or engraved the name of such hotel or boarding-house keeper, and the number and street of his hotel or boarding-house; and which said badges or shields shall be surrendered to said board upon the revocation by them or expiration of any license granted by them as herein provided.

§ 2080. Every sailors' hotel or boarding-house keeper, and every agent, runner, or employee of such hotel or boarding-house keepers, when boarding any vessel, in the harbor of New York, or when inviting or soliciting the boarding or lodging of any seaman, sailor, or person employed on any vessel, shall wear conspicuously displayed the shield or badge referred to in the foregoing section.

§ 2081. It shall not be lawful for any person, except those named in the preceding section, to have, wear, exhibit, or display any such shield or badge to any of the crew employed on any vessel with the intent to invite, ask, or solicit the boarding or lodging of any of the crew employed on any vessel being in the harbor of New York.

§ 2082. Whoever shall offend against any or either of the provisions contained in sections two thousand and sixty-nine to two thousand and seventy-three, inclusive, or two thousand and eighty or two thousand and eighty-one, of this act, and any commissioner appointed under this chapter who shall directly or indirectly receive any gratuity or reward, other than as herein provided for, or on account of any license under this chapter shall be deemed guilty of a misdemeanor. [*As am'd by L. 1909, ch. 353.*]

§ 2083. The word "vessel," as used in this chapter shall include vessels by whatever power propelled. The word "sailor" and the word "seamen" as used in this chapter shall include any person not an officer employed on any vessel. The word "boarding-house" as used in this chapter shall include a house where both board and lodgings are given or a house where lodgings alone are given. The word "hotel" as used in this chapter shall include a house where lodgings alone are given or a house where both board and lodgings are given. [*As am'd by L. 1909, ch. 353.*]

§ 2084. The president of the trustees of the Seamen's fund and retreat in the city of New York shall demand and be entitled to receive, and in case of neglect or refusal to pay, shall, in the name of the people of the state of New York, sue for and recover the following sums from either the owner or owners, or from the master, or from both the owner or owners and master, of every vessel from a foreign port; for the master, one dollar and fifty cents; for each mate, sailor, or mariner, one dollar. Second, from the master of each coasting vessel, from each person on board composing the crew of such vessel, twenty-five cents; but no coasting vessel from the state of New Jersey, Connecticut, or Rhode Island shall pay for more than one voyage in each month, computing from the first voyage in each year. And the said president may sue for the penalties imposed by law on masters of coasting vessels for nonpayment of hospital money.

APPENDIX VII.

OPINIONS OF THE ATTORNEY-GENERAL CONSTRU- ING PROVISIONS OF THE LABOR LAW.

CONSTITUTIONALITY OF ALIEN LABOR LAW.

December 20, 1910.

Hon. ROBERT W. HILL, *Secretary, Commission to Select a Site for the New York State Training School for Boys, Capitol, Albany, N. Y.:*

DEAR SIR.—Pursuant to your oral request asking me to examine the contract dated December 10, 1910, between the New York Central & Hudson River Railroad Company and the New York State Training School for Boys Site Commission, for the construction of a spur track, which contract already executed has been submitted to me by the State Architect, and if I find it to be in proper form to approve it, I have examined the contract and I find that I cannot approve it for the following reasons:

1. There has been omitted from it the provision required by section 14 of the Labor Law, which provides among other things, that only citizens of the United States shall be employed and preference given citizens of the State of New York.

On November 3, 1910, you wrote this department a letter in reference to this contract, wherein you asked whether the provision of the Labor Law, requiring that only citizens of the United States shall be employed on work under contract with the State of New York, is valid, and a deputy replied to your favor by letter, dated November 10, 1910, in which it was stated that the only case where this question has ever been passed upon was in *People vs. Warren*, 13 Misc., 615, and that it was there held that such a provision is unconstitutional and void, and the letter concluded that in the absence of any appeal from the decision in that case, or any conflicting decision, you were authorized to execute a contract omitting such provision.

The case cited is an isolated one which arose in the Superior Court of Buffalo in July, 1895, and the only question passed upon by the court was whether it was a crime for a contractor with a municipal corporation for the construction of public works to employ alien labor upon such works. The statute there under consideration was chapter 622 of the Laws of 1894, and the language of section 14 of the present law is not identical with the language in that Act.

Furthermore, since that decision and in 1905 the people of this State adopted an amendment to the Constitution (Article XII, Section 1), which provides:

“ * * * and the Legislature may regulate and fix the wages or salaries, the hours of work or labor, and make provision for the protection, welfare and safety of persons employed by the State, * * * or other civil division of the State or by any contractor or subcontractor performing work, labor or services for the State, * * * .”

This gives to the Legislature very broad powers in dealing with labor. Under the above quoted constitutional provision most of the present Labor Law has been enacted. The section in question in its present form has not been passed upon by the courts. It therefore seems to me in view of the change in the statute and the amendment of the Constitution, that the decision of the Superior Court of Buffalo can hardly be considered the law at the present time. Whether the Legislature under the provisions of the Constitution quoted had the power to enact the provision of the Labor Law under discussion may be open to dispute, and it would be well as I have heretofore suggested to the Labor Commissioner that the question of the constitutionality of it be tested in the proper forum and in that way the matter set at rest.

More than that it has heretofore been the custom to insert in all contracts wherein the State was a party, a provision in compliance with section 14 of the Labor Law. In view of these facts, I do not feel authorized under the law in advising you to omit said section from the contract.

I therefore withdraw the letter to you of November 10th, and overrule the views therein expressed and advise you that I cannot approve this contract without compliance with said provision of the Labor Law.

2. As the contract directs the performance of the work without public advertisement and without a preliminary deposit, it should comply with subdivision 6 of chapter 526 of the Laws of 1910, viz.: be approved by the Fiscal Supervisor of State Charities.

Yours very truly,

(Signed)

EDWARD R. O'MALLEY,
Attorney-General.

COMMISSIONER OF LABOR NOT EMPOWERED TO ISSUE PERMIT FOR MORE THAN EIGHT HOURS ON PUBLIC WORK IN EMERGENCIES.

The Commissioner of Labor is not empowered by the Labor Law to issue an order permitting a contractor engaged on work under contract with a municipality to work his men more than eight hours a day, even though, in the opinion of the Commissioner, an extraordinary emergency exists.

FACTS.

On the first day of April, 1911, one Lou B. Cleveland entered into a contract with the Board of Water Commissioners of the city of Ogdensburg for the construction of a filtration plant, water reservoir, water mains, etc., in the city of Ogdensburg. After work was commenced upon this contract, an order was issued by the Commissioner of Labor that the men employed by the contractor should not be required or allowed to work more than eight hours a day. On or about the 24th day of May, the contractor petitioned the Commissioner of Labor that he be permitted to work his men ten hours a day on the ground that, owing to the danger to public health and the character of the work, an extraordinary emergency existed within the terms of section 3 of the Labor Law. A hearing was had before the Commissioner of Labor, on the 24th day of May, 1911, at which time several affidavits were read in support of the petition. There were also appearances in opposition to the granting of the relief asked for in the petition and affidavits were also read in opposition thereto.

INQUIRY.

If the facts presented were sufficient to convince the Commissioner of Labor that an emergency existed within the meaning of section 3 of the Labor Law, would the Commissioner have the power to issue an order to the contractor to the effect that he might work his men ten hours a day?

OPINION.

Section 3 of the Labor Law provides that eight hours shall constitute a legal day's work for all classes of employees in this State except those engaged in farm and domestic service unless otherwise provided by law, and that each contract, to which this State, a municipal corporation or commission is a party, shall contain a stipulation that no workman or mechanic in the employ of the contractor shall be permitted or required to work more than eight hours in any one calendar day, except in cases of extraordinary emergency caused by fire, flood or danger to life or property.

Section 4 of the Labor Law provides:

Any officer, agent or employee of this state or of a municipal corporation therein having a duty to act in the premises who violates, evades or knowingly permits the violation or evasion of any of the provisions of this chapter shall be guilty of malfeasance in office and shall be suspended or removed by the authority having power to appoint or remove such officer, agent or employee; otherwise by the governor. Any citizen of this state may maintain proceedings for the suspension or removal of such officer, agent or employee or may maintain an action for the purpose of securing the cancellation or avoidance of any contract which by its terms or manner of performance violates this chapter or for the purpose of preventing any officer, agent or employee of such municipal corporation from paying or authorizing the payment of any public money for work done thereupon.

Section 21 provides:

The commissioner of labor shall enforce all the provisions of this article. He shall investigate complaints made to him of violations of such provisions and if he finds that such complaints are well founded he shall issue an order directed to the person or corporation complained of, requiring such person or corporation to comply with such provisions. If such order is disregarded the commissioner of labor shall present to the district attorney of the proper county all the facts ascertained by him in regard to the alleged violation, and all other papers, documents or evidence pertaining thereto, which he may have in his possession. The district attorney to whom such presentation is made shall proceed at once to prosecute the person or corporation for the violations complained of, pursuant to this chapter and the provisions of the penal law.

I am of the opinion that the Commissioner of Labor has not the power to issue an order permitting a contractor to work his men more than eight hours a day, but that his powers are confined to deciding whether or not the contractor may have violated the Labor Law by employing his men for more than eight hours a day, and taking such steps as are therein provided for enforcing the law and punishing violations thereof.

Dated June 8, 1911.

Respectfully submitted,

(Signed) THOMAS CARMODY,
Attorney-General.

To Hon. JOHN WILLIAMS,
Commissioner of Labor, Albany, N. Y.

EIGHT-HOUR LAW APPLIES TO WINTER REPAIR WORK ON
MACHINERY, ETC.

February 1, 1911.

Hon JOHN WILLIAMS, *Commissioner of Labor, Albany, N. Y.:*

DEAR SIR.—Your favor of the 31st ult. requesting my opinion and advice upon the question propounded by you has been received. The question is as follows:

A contractor engaged in the construction of a section of the barge canal, having suspended work upon the permanent improvement for the winter months, is engaged upon necessary repair work to his plant and in building dredges or pontoons so as to be in readiness to proceed with the contract work in the early spring.

Is the contractor subject to the restrictions contained in the Labor Law with respect to the hours of labor and rate of wages of laborers, workmen or mechanics while engaged exclusively upon such work as described in the foregoing paragraph?

Section 3 of the Labor Law, among other things, provides:

Each contract to which the state * * * is a party which may involve the employment of laborers, workmen or mechanics shall contain a stipulation that no laborer, workman or mechanic in the employ of the contractor, sub-contractor or other person doing or contracting to do the whole or a part of the work contemplated by the contract shall be permitted or required to work more than eight hours in any one calendar day except in cases of extraordinary emergency caused by fire, flood or damage to life or property.

The work to which you refer is being performed in the necessary repair work to the plant and in building dredges or pontoons in order to proceed with the contract work in the early spring. I believe that work of this character is essentially a part of the work necessary to be performed by the contractor in the carrying out of his contract and is clearly within the prohibition of the statute. The keeping of the plant in repair and the preparation of the location for work actually required is clearly "contemplated by the contract." I think it falls within the spirit and letter of the statute. I would, therefore, answer your inquiry in the affirmative.

Very truly yours,
(Signed) THOMAS CARMODY,
Attorney-General.

WEEKLY-PAY LAW DOES NOT APPLY TO UNINCORPORATED SUB-
CONTRACTORS.

A sub-contractor, from a corporation or a joint stock association, holding a contract with the State for the construction of a section of the Barge Canal or other public work, in doing such work is not carrying on the business of the contracting corporation within the meaning of section 11 of the Labor Law and is not required to pay wages weekly.

INQUIRY.

Whether a sub-contractor, from a corporation or joint stock association, holding a contract with the State to construct a section of the Barge Canal, in doing such work is carrying on the business of the corporation so as to come within the provisions of section 11 of the Labor Law requiring the weekly payment of wages.

OPINION.

The first paragraph of section 11 of the Labor Law provides:

Every corporation or joint-stock association, or person carrying on the business thereof by lease or otherwise, shall pay weekly to each employee the wages earned by him to a day not more than six days prior to the date of such payment.

Not the nature of the work, whether public or otherwise, but the status of the employer is the controlling factor under this section. Its language differs widely from the provisions of section 3 of the Labor Law regarding hours of labor and of section 10 requiring payment of wages in cash. In each of those sections sub-contractors are expressly included in its provisions. The language of section 11 does not indicate an intention to include in its provisions a sub-contractor from a corporation unless he is carrying on the business thereof. The reasons for restricting corporations in their contracts with workmen do not apply in this case. The employee makes his agreement with the sub-contractor. He is not dealing with or working for the corporation, the original contractor, whose business may be something much wider than or essentially different from the particular work covered by the contract. One or two specific acts do not constitute a business. There is a wide difference between carrying on the business of the corporation and in doing certain work which the corporation had undertaken to perform, and I do not think a sub-contractor from a corporation can be deemed to be "carrying on the business thereof" even though he does the particular work which the corporation had contracted to do, unless other and controlling reasons exist.

I am therefore of the opinion that your question must be answered in the negative.

Dated March 21, 1911.

Respectfully submitted,
(Signed) THOMAS CARMODY,
Attorney-General.

To Hon. JOHN WILLIAMS,
Commissioner of Labor, Albany, N. Y.

ACCIDENTS IN HOUSE WRECKING TO BE REPORTED.

A firm engaged in wrecking old buildings comes within the scope of section 20-a of the Labor Law and it is its duty to report deaths, accidents or injuries to the Department of Labor.

QUESTION.

Whether a firm engaged in wrecking old buildings comes within the scope of section 20-a of the Labor Law, so that it is its duty to report accidents to the Department of Labor.

The section referred to is as follows:

Section 20-a. Accidents to be reported.—The person in charge of any building, construction, excavating or engineering work of any description, including the work of repair, alteration, painting or renovating, shall keep a correct record of all deaths, accidents or injuries sustained by any person working thereon, in such form as may be required by the commissioner of labor. * * * Within forty-eight hours within the time of the accident, death or injury, a report thereof shall be made in writing to the commissioner of labor, stating as fully as possible the cause of the death or injury, * * *

OPINION.

As you state in your letter, "the work of wrecking and removing old buildings is essentially the first process in the work of building on the site already occupied by an old structure; that it is oftentimes done by the same firm which excavates for the foundation or constructs the new building as part of one building contract; and that it is commonly regarded as a part of the building industry."

The same dangers and liability to accidental injury exist in tearing down a structure as in erecting it, and the reasons for enacting this law apply as much to the dangers incident to the work of tearing down the building as in the construction of it.

But the law is not confined in its application to the work of erecting structures, etc. The word "building" as used in this section, in my opinion, means a structure, not the work in erecting a structure. It is a noun, and regarding it as such the meaning and intent of the law as applicable to the question is clear.

The person in charge of any building * * * shall keep a correct record of all deaths, accidents or injuries sustained by any person working thereon, * * * .

I think it clear that the work of tearing down or wrecking an old building is work upon such building within the meaning of the law and that accidents occurring in doing such work should be reported to the Department of Labor.

Dated *May* 17, 1911.

Respectfully submitted,
(Signed) THOMAS CARMODY,
Attorney-General.

To Hon. JOHN WILLIAMS,
Commissioner of Labor, Albany, N. Y.

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