

TURNER (THOS. J.)

*Some Remarks upon National
and International Sanitary
Jurisprudence.*

BY

THOMAS J. TURNER, A.M., M.D., PH.D.,

MEDICAL DIRECTOR UNITED STATES NAVY.

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READ BEFORE THE

AMERICAN PUBLIC HEALTH ASSOCIATION,

November, 1881,

AT ITS ANNUAL SESSION IN THE CITY OF SAVANNAH, GA.

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SOME REMARKS UPON NATIONAL AND INTERNATIONAL SANITARY JURISPRUDENCE.

By T. J. TURNER, M.D., U.S.N.

“The application of a rule to various subjects can no otherwise be made but in a manner agreeable to the nature of the subject; whence there results a natural law of nations as a particular science, consisting in a just and rational application of the law of nature to the affairs and conduct of nations and sovereign princes.” — VATTTEL.

I DESIRE to expressly state at the outset that the views hereinafter presented must be considered entirely from the stand-point of preventive medicine.

The Act of March 3, 1879, introduced by the Hon. J. H. McGowan of Michigan, established in the United States, for the first time in its political history, a National Board of Health. This Act detailed the method of its organization, and, in a general way, assigned certain functions to the Board. (Appendix I.)

The Act of June 2, 1879, introduced by the Hon. Isham G. Harris of Tennessee, added other duties to those already assigned; and it is proposed to consider certain of these duties in their relations to both National and International Sanitary Jurisprudence. (Appendix II.)

This latter Act, that of June 2, 1879, is known as the “Quarantine Act,” and has its foundation in art. I., sect. 8, of the Constitution of the United States, which reads as follows: —

“The Congress shall have power . . . to regulate commerce with foreign nations, and among the several States, and with the Indian tribes.”

The learned Justice Story, in his commentaries on the Constitution, especially upon this section of art. I., states, “In the first place, then, what is the constitutional meaning of the words, ‘to regulate commerce’?” for the Constitution being (as has been aptly said) one of enumeration and not of definition, it becomes necessary, in order to ascertain the extent of the power, to ascertain the meaning of the words. The power is to regulate; that is, to prescribe the rule by which commerce is to be governed. The subject to be regulated is commerce. Is that limited to traffic, to buying and selling, or the interchange of commodities? Or does it comprehend navigation and intercourse? . . . Commerce undoubtedly is traffic; but it is something more, — *it is intercourse*. It describes the commercial intercourse between nations and parts of nations in all its branches, and is regulated by prescribing rules for carrying on that intercourse.” He further states that there are acknowledged powers of the States over certain subjects having a connection with commerce, and remarks, “These powers are entirely distinct in their nature from that to

regulate commerce ; and, though the same means may be resorted to for the purpose of carrying these powers into effect, this by no means furnishes any ground to assert that they are identical. Among these are inspection laws, *health laws*, laws regulating turnpikes, roads, and ferries ; all of which, when exercised by a State, are legitimate, arising from the general powers belonging to it, unless so far as they conflict with the power delegated to Congress. They are not so much regulations of commerce as *police*, and may truly be said to belong, if at all, to commerce, to that which is *purely internal*." Justice Story also, in commenting upon the extent, objects, and purposes to which the constitutional powers of the General Government may be applied among States, says that it " extends to quarantine laws ;" but upon such subjects his editor (Cooley) says, " The power is not exclusive."

The Hon. J. R. Tucker, member of Congress of Virginia, in his letter of Nov. 19, 1878, to Dr. J. L. Cabell, recites, " that Congress should sustain the health laws of the States, and may make provisions in aid of them, but not against them, or contrary to their purpose." He also further states, " Congress, by limiting *commercial privileges* by its own rules, which will prevent the ingress or spread of disease, and respecting the health regulations of each State, will do all for commerce it should do consistently with the welfare of the people. . . . I confess I can see no constitutional difficulty to the adoption of a system of commercial and health laws in perfect harmony with each other, made legal by the sanction of the Federal and State Governments."

It is not seen how the first part of the quotation can apply without conflict of authority ; for instances are too well known of the establishment of health laws for quarantine purposes by the ports of one State against ports of another State, ostensibly for the purpose set forth, but in reality aimed at securing for themselves each other's commercial interests. It is not likely that Congress would sustain or make provisions in aid of such laws, especially when paragraph 6, sect. 9, art. I. of the Constitution, — " No preference shall be given by any regulation of commerce or revenue to the ports of one State over those of another," — is considered in such relations.

It may not be out of place here to refer to the opinion of Chief Justice Marshall in the case of *Gibbons v. Ogden*, delivered in 1824, and which is so frequently quoted as bearing upon the matters under consideration, and either directly or indirectly bearing upon the duties and responsibilities of the National Board of Health, founded, as it is at present, upon that part of the Constitution of the United States " to regulate commerce : " —

" The genius and character of the whole government seem to be, that its action is to be applied to all the external concerns of the nation, and to those external concerns which affect the States generally, but not to those which are completely within a particular State, which do not affect the other States, and with which it is necessary to interfere, for the purpose of executing some of the general powers of the government. The completely internal commerce of a State, then, may be considered as reserved to the State itself. But, in regulating commerce with foreign nations, the power of Congress does not

stop at the jurisdictional lines of the several States. It would be a very useless power if it could not pass these lines. The commerce of the United States with foreign nations is that of the whole United States. Every district has a right to participate in it. The deep streams which penetrate our country in every direction pass through the interior of almost every State in the Union, and furnish the means of exercising this right. If Congress has the power to regulate it, that power must be exercised wherever the subject exists. If it exists within the States, if a foreign voyage may commence or terminate at a port within a State, then the power of Congress may be exercised within a State. This principle is, if possible, still more clear, when applied to commerce 'among the several States.' They either join each other, in which case they are separated by a mathematical line; or they are remote from each other, in which case other States lie between them. . . . The power of Congress, then, whatever it may be, must be exercised within the territorial jurisdiction of the several States. . . . We are now arrived at the inquiry, What is this power? It is the power to regulate — that is, to prescribe — the rule by which commerce is governed. This power, like all others vested in Congress, is complete in itself, may be exercised to its utmost extent, and acknowledges no limitation, other than are prescribed by the Constitution. . . . If, as has always been understood, the sovereignty of Congress, though limited to specified objects, is plenary as to those objects, the power over commerce with foreign nations and among the several States is vested in Congress as absolutely as it would be in a single government having in its constitution the same restrictions on the exercise of the power as are found in the Constitution of the United States."

Again, in the same case, the chief justice remarks, in alluding to inspection laws, etc., —

"They form a portion of that immense mass of legislation which embraces every thing within the territory of a State not surrendered to a General Government; all which can be most advantageously exercised by the States themselves. Inspection laws, *quarantine laws, health laws of every description*, as well as laws for regulating the internal commerce of a State, and those which respect turnpikes, roads, ferries, etc., are component parts of this mass. No direct general power over these objects is granted to Congress, and consequently they remain subject to State legislation. If the legislative power of the Union can reach them, it must be for national purposes, it must be where the power is expressly given for a special purpose, or is clearly incidental to some power which is expressly given. It is obvious that the government of the Union, in the exercise of its express powers (that, for example, of regulating commerce with foreign nations and among the States), may use the means that also may be employed by a State in the exercise of its acknowledged powers (that, for example, of regulating commerce within the State). . . . The Acts of Congress passed in 1796 and 1799 (Appendix III.), empowering and directing the officers of the General Government to conform to and assist in the execution of the quarantine and health laws of a State, proceed, it is said, upon the idea that these laws are constitutional. It is undoubtedly true that they do

proceed upon that idea ; and the constitutionality of such laws has never, so far as we are informed, been denied. But they do not imply that a State may rightfully regulate commerce with foreign nations or among the States ; for they do not imply that such laws are an exercise of that power, or enacted with a view to it. On the contrary, they are treated as quarantine health laws, are so denominated in the Acts of Congress, and are considered as flowing from the acknowledged power of a State to provide for the health of its citizens. But it was apparent that some of its provisions, made for this purpose and in virtue of this power, might interfere with and be affected by the laws of the United States, made for the regulation of commerce. Congress, in that spirit of harmony and conciliation which ought always to characterize the conduct of governments standing in the relation which that of the Union and those of the several States bear to each other, has directed its officers to aid in the execution of these laws, and has, in some measure, adapted its own legislation to this object by making provisions in aid of those of the States. But, in making these provisions, the opinion is unequivocally manifested that Congress may control the State laws so far as it may be necessary to control them for the regulation of commerce."

Justice Grier gives the following opinion as a definition of the police power of the States: "It may safely be affirmed that every law for the restraint and punishment of crime, *for the preservation of the public health, peace, and morals*, must come within this category. . . . The exigencies of the social compact require that such laws be executed before and above all others. . . . It is for this reason that quarantine laws, which protect the public health, compel mere commercial regulations to submit to their control. They restrain the liberty of the passengers, they operate on the ship, which is an instrument of commerce, and its officers and crew, the agents of navigation. They seize the infected cargo, and cast it overboard. The soldiers and sailors, though in the services of the government, are arrested and imprisoned and punished for offences against society. Paupers and convicts are refused admission into the country. All these things are done, not from any power which the States assume to regulate commerce, or to interfere with the regulations of Congress, but because *police laws for the preservation of health*, prevention of crime, and the protection of the public welfare, must of necessity have full and free operation, according to the exigency which requires their interference."

It appears evident from these rulings applied to quarantine and health laws, that each State has a reserved right to legislate upon such matters *within* its territorial jurisdiction, and no farther, — this I have chosen to term *intra-state* quarantine. It is also evident that *interstate* quarantine, *between and among* the States, belonging to no State in particular, is within the competent jurisdiction of the General Government, and also that Congress has the power of assuming the control and conduct of the entire subject in all its relations, for national purposes, whenever in its judgment such conduct and control is necessary.

It is a well-established fact that certain articles of commerce, of traffic, are the carriers of disease-poisons, if not entering themselves as prime factors in their causation under certain conditions; and it is known also that even the means used for carriage or transportation, — ships, cars, etc., — independent of their contained freights and the act of carriage, are more or less suspected, according to the evidence existing at the time, to be the source of such disease-movements. Now, the Act of June 2, 1879, aims to attain exemption from portable disease-poisons being so carried, by securing *the best sanitary condition of vessel, cargo, passengers, and crew*. How are these disease-poisons and diseases introduced? By the intercourse of *persons* and the carriage of *things*. The diseases specially noted by the National Board of Health, for the purpose of the Act, as being introduced, are yellow fever, small-pox, cholera, and plague.

Whatever may be stated as the characteristics of the yellow-fever poison, it is known as a practical fact, needing no demonstration here, that it is carried by ships, perhaps, as some assert, originating in them under certain conditions; and it is also known to attach itself to many articles that can be and are carried from place to place, notably, to cite a very frequent instance, in woollen goods, such as clothing, blankets, etc. So far as to *things* as the carriers of pestilential disease-poison. Now, as to *persons*. There is no hazard of contradiction from any student of the history of medicine, still less from any student of preventive medicine, when his attention is directed to the fact, that the crowding together of fever-patients gives rise to what was known to the early medical writers of this century as an "idio-miasm," an animal poison, reproducing its like in persons previously unaffected coming within the range of its influence. To discuss this matter in all its relations would lead me into the subject of hospitalism, — in fact into the consideration of the causation of all the ochletic diseases. It certainly does not become me here to apply the like reasoning to variola, typhus, or the plague, or, with immaterial modifications, to cholera. The names being changed, the application is the same. Upon these correctly received ideas, and the known fact of the portability of the unknown factors in the production of disease-movement, is, as I have hinted, the present legislation based. In accepting Justice Story's definitions, I trust to be permitted to state, from a sanitary stand-point, that this legislation is a regulation of commerce, and also an act of national sanitary police, and to that extent removed from State interference.

Sect. 4794 of the Revised Statutes reads, "That there shall be purchased or erected, under the orders of the President, suitable warehouses, with wharves and enclosures, where merchandise may be unladen and deposited from any vessel which shall be subject to a quarantine, or other restraint pursuant to the health laws of any State, at such convenient places therein as the safety of the public revenue and the observance of such health laws may require."

It will be observed that merchandise under these circumstances is under United States laws, and that such merchandise may be carried anywhere in the Union from such warehouse; and it is the opinion of the writer that it is.

not even an extension of the power of the General Government to control the whole matter under such circumstances.

Granting as an unquestioned fact that the State laws and regulations are those of police and wholly internal, the difficulty has been and still will be to keep such transportable disease-poisons within the limits of the State lines and under State regulations. The Hon. Erastus Brooks, at the last session of this Association, stated that which must be received as a sanitary axiom: "Epidemics are public enemies." The disease-poisons producing epidemics are spread by commercial intercourse, traffic, and other means. Being a public enemy, the whole matter, so it occurs to me, should be relegated to the national authorities, so as to provide for that other enumerated duty of the General Government, "to provide for the common defence."

But an epidemic cannot be handled like a bale of goods, or other packages of merchandise. As common enemies they have often broken the centre, and outflanked strict military sanitary cordons, and won deadly victories, because we do not as yet have the arms of precision wherewith to combat them. Nevertheless I believe that some day, with improved armaments, sanitarians will be able to conquer a lasting peace.

There is no question, that, if, say, yellow fever could be confined to one State, the unanimous and cordial assent of every other State in the Union would be given to that State to keep it there and enforce its internal police laws to the utmost. The moment, however, that the epidemic arrives by commercial avenues at the borders of another State, and commerce between the States commences at that moment, the supreme law of the land should and does stand ready to interpose whatever of efficiency can be wielded to protect the public health. In the third section of the Act of June 2, 1879, occurs these words: "To prevent the introduction of contagious or infectious diseases into the United States from *foreign countries, and into one State from another.*" To put in force such measures as the various States may have ordered by appropriate legislation to the end of preventing the introduction of said diseases, there must be,—

First, A knowledge that such diseases are in existence in another State. *Second*, That this knowledge should be communicated between like responsible authorities. The methods of communicating such information to such authorities in the different States is a matter of minor detail.

To obtain the first, it is deemed essential that local health boards should be constituted in the various municipalities. The knowledge received by such boards should be collected, received, formulated, and published by a State board as the central bureau for the common information of all, as well as a means of facilitating the administration of the health laws of the State. In the United States, by a parity of reasoning, the National Board of Health should remain permanently established, in order that the information collected by the State boards may be utilized for the common weal, and because, in entering upon the broader field of international sanitary jurisprudence, a recognized central health bureau under the General Government is a primary

essential, without which we are cut off from the means of obtaining from other governments official and trustworthy information as to all matters concerning the public health of their territories. It is thus seen that there is proposed a wider sphere of action for the National Board of Health, and also a desire to bring the Board into closer relations with State and analogous foreign boards, in order that the interest and object we all, I trust, sincerely have at heart, — public health, — may be advanced.

My adherence is given to a central superintending board with more powers than are now delegated to the National Board of Health. How far supervision and administration for both should, in the opinion of the writer, be united in one body, is a question which demands long and thoughtful consideration. He is also of the opinion that the States should co-operate with the National Board of Health, by means of such instruments as State boards of health or like State organizations, in all the duties and responsibilities which appertain to such boards, and that the National Board of Health should co-operate with the duties of State boards, and be able, by statutory provision, to secure promptly trustworthy and accurate detailed information upon all matters concerning the public health in a State. A great many of these matters, it has been suggested, have been proposed by Bentham for the consideration of his health minister.¹

That scheme, as many of you are aware, especially those who have been interested in sanitary jurisprudence, grouped preventive and curative medicine in all their details, and proposed codes for their administration: it also proposed to extend these duties to the care of all subjects which are now grouped under the comprehensive term of social statics. The very extent of the duties would have demanded Argus eyes with Briarean hands for their accomplishment.

But, to secure all this, appropriate legislation is necessary; and such legislation needs the careful and profound consideration of jurists. As sanitarians we exhibit the object to be secured: the legal profession must in turn show us the ways and means.

I may remark here that it seems more than useless to depend on voluntary information from either States or nations as to the conditions of the public health in their respective territories. What are now but voluntary contributions to such information in the United States should be made mandatory in character. My experience and observation suggest no other means. I also beg to state, that not for a single moment is undervalued the cordial and zealous manner in which the contributions of hundreds of observers have been made; but I am compelled to remark, that to secure even matter enough to have a fractional idea of disease and death movement in the United States has been a labor of combating, frequently, assumptions presented as facts, and of pretences rather than knowledge. The means of securing prompt and trustworthy information of the existence of contagious or infectious diseases, and its rapid publication between nations, however, is a subject of treaty. No State or municipality can officially deal with a foreign state in such matters;

¹ See Richardson's (B. W.) Ministry of Health *passim*.

for foreign states recognize in all their relations only the sovereignty of the United States. Art. I., sect. 10, of the Constitution states, "No State shall enter into any treaty, alliance, or confederation." Art. II., sect. 2, delegates the treaty-making power to the executive, "by and with the advice and consent of the Senate." States therefore are powerless under the Constitution to furnish the necessary official information to foreign governments; and, even in the matter of interstate comity upon these subjects, a central, national, organized body, as has been stated, to which all alike could apply for authentic information, is an essential in the interests of public health. An instance may bring this point out clearly. During the present year the government of Spain declared quarantine against the port of Philadelphia on account of cholera. The government of Sweden and Norway instructed its pilots to have a watchful care over vessels coming from Philadelphia with sick on board, on account of cholera. This information was communicated to the National Board of Health by the Department of State, and the health authorities of Philadelphia were promptly notified. In the official reply to this notification the health authorities of Philadelphia, under the seal of their office, declared that not a *case* of cholera had occurred in that city for a year. This information was communicated to the State Department for its use and guidance.

A useless quarantine had been established against the commerce of the second largest city in the Union, that had not the shadow of fact for its base, only rumor alone. I am perfectly safe in stating, that at the time of the promulgation of the quarantine against Philadelphia on account of cholera, for six months previous, and until the present writing, not a case of cholera had been reported as existing anywhere in the United States.

Had the question of the existence of cholera been addressed by the respective governments interested to the National Board of Health, and had the Board the legal right to obtain the necessary official information, a useless and perhaps burdensome restriction upon the commerce of that city might have been entirely prevented. As it was, the information given was an act of courtesy, not a matter of right; and the subject is presented to the consideration and judgment of any interested as to what mischief might have occurred, had such rumor gone to the full extent of affecting the whole commercial interests of the United States. The like action may take place in the future towards any port in the United States; and the outcry will be more or less loud, according to the size of the port, and the extent to which its commercial interests are interfered with or affected. I offer all I have stated as part of my plea for the permanency of the National Board of Health, not proposing any plan for or change in its organization, but to call attention to what will become a more or less prominent function of the Board in its relations with the States and with foreign health authorities. I have also to offer my convictions regarding the functions of the National Board of Health. In its full action it would simplify the modes of administration of health and quarantine laws; it would secure their efficiency by prompt action; it would remove some of the cause of commercial jealousy between ports; it would secure a better sanitary condi-

tion of ships, cargoes, passengers, and crews than now obtains ; it would afford to the numerous local health boards accurate and trustworthy information, in so far as that is attainable by official routine, as to the sanitary conditions of places, etc. ; in cases of dissension between health boards, it would be made the umpire, as it would be removed from local or partisan bias ; it would secure a uniformity in the collection of vital statistics, and so determine, in so far as it is possible, those laws governing the living man in his social relations, the which laws are now unknown and conjectural. It would encourage and foster those important elements in general sanitation, sanitary surveys, both geological and topographical, of localities ; the water-supplies of cities and towns, as well as their drainage ; the hygiene of industrial pursuits ; the preparation and care of food-supplies ; the construction, ventilation, lighting, and warming of public buildings ; the removal of excreta, garbage, etc. ; the utilization or other disposal of sewage, etc. It would relieve in many instances the burdensome and annoying restrictions imposed by local quarantines upon commerce by giving facts, rather than suspicions, upon which a health officer should base a sound, practical judgment. It would teach to those who would learn, that quarantine does not mean detention for forty days, but does mean the vigorous application and action of sanitary laws. It would aid the practising physician by giving him due and timely notice of the locality, existence, rise, prevalence, and decline of pestilential diseases, and discover, perhaps, the laws of the modes of their transmission. It would stimulate places likely to be attacked by such diseases to inaugurate such measures of prevention consonant with the scientific knowledge of the time as would render such places less liable to become affected, if not preventing entirely such attack, and so, in a greater or less degree, avert danger, disarm panic, reduce the chances of sickness and death, and in the like many instances fulfil its great object,—guarding the public health.

It is believed that the National Board of Health is but an evidence of the slow but inexorable operation of the law of evolution as it applies to sanitary science ; and, whilst fully agreeing with Spencer as to the possibilities of a coming sanitary millennium far in the future, it is not considered wise or prudent to neglect the proper means to that end by either supineness of thought or act. The facts are all patent enough, the conditions and relations of the facts, perhaps, also ; and it is the sublimity of foolishness to fold one's hands without an endeavor to put out the fire that is consuming the house rapidly, because one possesses the knowledge that a much slower process of oxidation will destroy the building *in time*. The writer has endeavored to present this view of the subject simply as one who is interested in sanitary science, and not from any politico-economical views he may entertain, provided he has any, and desires to reiterate his honest conviction that centralization of the means to accomplish all that is desirable, and considering also in such centralization the eminent utilitarian results, in matters affecting the public health, can best be accomplished by the National Board of Health as now organized, with, however, enlarged jurisdiction. Such a "consummation is devoutly to be

wished for ;” and he believes, that, in the future advance of sanitary science in this country, such will be the outcome. The opinion of the Hon. D. B. Eaton is of practical value in this connection. Mr. Eaton considers, that, if the nation can make the minute inquiry required by the census, can collect and publish the weather-signs, obtain information concerning the extent and value of the crops, exercise jurisdiction over every package of merchandise, and over every vessel in navigable waters, tax for educational purposes, and seize private property for public benefit, “how can it be denied that it is the right and duty of the General Government to bring the diverse elements of sanitary jurisdiction, as far as practicable, under one efficient Board, which shall act in harmony with the health boards of the several States?”

It is the opinion of the writer that the whole matter of quarantine is within the competent jurisdiction of Congress ; and this opinion is based upon judicial decisions.

It has been decided, —

That the power of Congress to *regulate* commerce with foreign nations, or between the several States, is exclusive.¹

That to regulate implies full power over the thing to be regulated.²

That it may regulate ships and vessels so far as they are engaged in the carrying-trade.³

That it includes every subject of commerce to which legal discretion may apply ; and to regulate the whole subject as much by what it leaves out, without any positive regulation, as by what it expressly provides for.⁴

That it is for Congress to determine when its full power shall be brought into action, and as to the regulations and sanctions which shall be provided.⁵

That the power may be exercised wherever the subject exists ; and this may be within the territorial jurisdiction of the several States, and, when exercised, is exclusive of the same power in the several States.⁶

That the power to regulate comprehends the control for that purpose, to the extent necessary, of all the navigable waters of the United States accessible from a State other than those in which they lie ; to the control of all navigable waters extending to the seacoast, and does not stop at the State boundary.⁷

That in the concurrent powers of the National and State Governments, whilst the States are not absolutely prohibited from legislation as to regulating commerce, they may do so while the power of Congress lies dormant. Amongst

¹ *Gibbons v. Ogden*, 9 Wheat. 1. *Brown v. Maryland*, 12 Wheat. 412. *Martin v. Waddell*, 16 Peters, 367. *Allen v. Newberry*, 21 How. 246. *Passenger cases*, 7 How. 282.

² *State Freight Tax*, 15 Wall. 279.

³ *The Martha Washington*, 3 Wall. 249.

⁴ *Dred Scott v. Sandford*, 19 How. 622. *The Chusan*, 2 Story, 466. *Gibbons v. Ogden*, 9 Wheat. 1. *Holmes v. Jennison*, 14 Peters, 450.

⁵ *New York v. Miln*, 11 Peters, 102. *U. S. v. Combs*, 12 Peters, 72.

⁶ *Gibbons v. Ogden*, 9 Wheat. 1. *U. S. v. New Bedford Bridge*, 1 Wood and M. 486. *U. S. v. Duluth*, 1 Dill. 172. *Cooley v. Port Wardens*, 12 How. 299.

⁷ *Gilman v. Philada.*, 3 Wall. 713. *Gibbons v. Ogden*, 9 Wheat. 1. *The Daniel Ball*, 10 Wall. 564. *The Genessee Chief*, 12 How. 443. *The James Morrison*, Newb. 248.

the concurrent powers of Congress and the States, quarantine is enumerated : and it has been decided, that, where Congress does not act, the States may legislate on local and appropriate matters, though they may be connected with commerce ; but, in case of the action of Congress, the State laws must yield.¹

Such are the facts upon which the writer bases his opinion that both quarantine, and all regulations flowing from it concerning the public health, so far as the States are concerned, are within the competent jurisdiction of the Congress.

Pertinent to this whole matter, it is desired that observant and thoughtful attention be given to the remarks of my colleague, the President of the National Board of Health, Professor James L. Cabell, as presented to the American Medical Association in a paper read at its meeting in Richmond, May, 1881, entitled, "The National Board of Health and the International Sanitary Conference."

The American Public Health Association, at its meeting in Richmond, adopted the following resolution : —

"That it is the duty of the General Government to invite foreign nations to co-operate with it in the establishment of uniform and effective quarantine regulations."

The result of this resolution was the passage of a joint resolution of Congress, approved May 14, 1880 (Appendix IV.), authorizing the President of the United States to call an International Sanitary Conference to meet at Washington, D.C., to which the several powers having jurisdiction of ports likely to be infected with yellow fever or cholera should be invited to send delegates, properly authorized, for the purpose of securing an international system of notification as to the actual sanitary condition of ports and places under the jurisdiction of such powers, and of vessels sailing therefrom. It will be observed that the resolution of the Association was directed to the establishment of uniform and effective *quarantine* regulations ; and that the joint resolution of Congress, whilst actually specifying ports likely to be infected with yellow fever and cholera, extended the research far beyond the quarantines of such places to the extent of determining the *actual sanitary condition of ports and places, and vessels sailing therefrom*, and also a *system of international notification of these conditions*. This conference met in Washington, D.C., in the Hall of the Department of State, Jan. 5, 1881 ; adjourned *sine die*, March 1, 1881 ; and the various protocols of its proceedings were presented to the Senate, Oct. 12, 1881, and are now in the course of publication.

At this conference twenty-seven governments were represented, for the most part by their already accredited diplomatic officers to the United States. Germany, Austria, Hungary, Belgium, Spain, Great Britain, Mexico, the Netherlands, Portugal, and the United States of Colombia were in part represented

¹ License cases, 5 How. 583. The *George S. Wright*, Deady, 596. *Hobard v. Dorgan*, 10 Peters, 121. The *John Fraser*, 21 How. 184. The *America*, How. 177. *Brown v. Maryland*, 12 How. 419. *Lincoln v. the Volusia*, 4 Pa. L. I. 65. The *Panama*, Deady, 32.

by special delegates, many of them being medical men of high official position in their own countries.

The delegates from the United States presented to the conference an informal paper based upon both the letter and spirit of the joint resolution of Congress. This paper had reference to such international concessions as were considered necessary to enable the consular agents of the several powers to obtain and transmit to their respective governments trustworthy information as to the sanitary condition of ports of departure, and also of the vessels about to clear from such ports for their respective countries, each government reserving to itself the application of its own quarantines. This paper was referred by the conference to a committee composed of all the special delegates present, with several of the diplomatic delegates who had previously given attention to such matters. The committee adopted the preamble and several of the propositions noted in the paper presented by the delegates of the United States, but prefaced the matter by two fundamental articles. These articles were, —

I. That it be recommended to the conference that it be admitted as an international principle of sanitation that it is highly desirable to adopt an international system of notification concerning sanitary matters and the appearance and disappearance of contagious and infectious diseases.

II. That it is the opinion of this committee that it must be highly advantageous to permit certain sanitary inspections to be made by foreign agents in ports of various nations, subject to such rules as are necessary for the safeguard of each country's sovereignty and of each country's commercial interests.

The special propositions following indicated the methods by which these principles could be rendered effective ; but the committee were disinclined to accede to the proposition of the United States delegates that the consuls should have the right to make the sanitary inspections, considering the duty as technical in character, belonging especially to medicine, and therefore to be made by medical men attached to the consulates.

Whilst fully admitting the fact that the duty, being technical in character, should be delegated to an officer skilled in sanitary science, the delegates of the United States objected to the methods on the score of its expense, and the institution of a corps of officials, grave ones in a country that coins the phrase "the almighty dollar," and where office-seeking is an avocation as well as a recognized cause of mental unsoundness. Consuls were selected because they are the accredited representatives of the government at the port of departure, that their official status would secure trustworthy information, that due credence pertains to their official acts, and because the issue of the certificates of such inspection, and the other sanitary information, — that is, a bill of health, — is legally one of a ship's papers.¹ The idea that a consul should be limited to his personal views upon the matters presented for his consideration

¹ See Marshall on Insurance. Jacobsen's Sea Laws. That a bill of health is essentially a necessary paper, see Appendix V.

in the sanitary history of the vessel, cargo, passengers, and crew, or as to the sanitary condition of the port of departure, is not to be entertained for a moment: it is far more likely, that, even to form an opinion worthy the name, he will be compelled to resort to the technical knowledge and experience of a physician.

After the committee had submitted its report to the conference, two difficulties were presented which very much impeded the road to a ready and prompt acceptance to that report. The first was the decided opposition manifested by the diplomatic members of the conference to the fundamental proposition that it is desirable *to permit sanitary inspections to be made by foreign agents in the ports of the various nations of all vessels taking their departure from such port to the port of entry represented by a foreign agent.* This proposition — a concession on the part of the delegates of the United States — is deemed essential to the attainment of the ends submitted by the United States in calling together this conference. The second difficulty was the proposed establishment of cumbrous systems of international sanitary bureaus. It is proposed here to consider the first-mentioned objection, having expressed my views as to the second in the first part of this paper. How well or ill the duty assigned to the delegates of the United States has been performed, it does not become me to speak; but from my own stand-point is submitted some of the results attained in which we are all more or less particularly interested, and because it has been didactically stated, before the International Medical Congress, that the conclusions of the conference are not satisfactory, and will give no practical result. It must be stated here, that, before the closing of this conference, all the decisions upon the questions presented, as well as the final act, were expressly stated to be held "*ad referendum*;" in other words, that the matters so presented must be referred to the home governments. The meeting was simply a conference, not a convention with plenary powers; and the expressions of opinion, therefore, have more or less of personal character, and are not to be taken as the expressed views of the powers represented. A convention with plenary powers, so that a treaty could be made, is, in the opinion of the writer, now a necessity; for he feels assured that a further consideration of the subjects presented by the United States delegates would be followed by concessions of importance to sanitary science, and more particularly to the interests of public health.

The opposition of the diplomatic members of the conference, as has been stated by my colleague in the conference, Professor James L. Cabell, to the principle of permitting sanitary inspections by agents of foreign powers, was persistent and unyielding. In the final act of the conference, this principle is admitted under certain restrictions. It will be observed that the right of visitation and search is in a measure involved in the word "inspection." The terms "visitation," "search," "approach," "examination," appear, in the legal text-books consulted, to be used as synonymous. In the Act of June 2, 1879, the word "inspection" can be understood in no other sense.

Now, according to jurists, the right of search and visitation is a belligerent

right, exercised only on the high seas, by public armed vessels of the belligerents, upon vessels flying neutral flags; it ceases with the termination of hostilities between the belligerents; is allowed by the general consent of nations; is limited by the time of war; is essential to the right of determining and capturing an enemy's property, contraband of war, and vessels committing a breach of blockade; is for determining the nationality and regularity of the ship's papers, etc. A ship's papers are defined to be in law, "The documents expected to be found on a neutral ship, and are, the register, the passport, or sea-letter, the muster-roll, the charter-party, the bills of lading, the invoice, the log-book, and the *bill of health*."²

How jealously this right is guarded, and to what extent it pertains, may be understood from the following opinions of jurists who have given attention to the matter: and it will be observed, that, from these opinions, the fact that a qualified right of search, or inspection, may be deduced; and, upon such deduction, a sanitary right of search, as I have termed it, can be based.

Judge Story, in commenting upon the right of search and visitation, says, "Mere visit does not give the necessary information. The moment you ask to examine the papers, or ask a single question, it is a search."

Masse (*Droit Commercial* Liv. 2, Tit. 1, chap. 2, sect. 2) says, "that, whatever may be the object of the visit in time of peace, it is always an act of police, which cannot be exercised by one nation towards another, because it implies, on the part of the visitor, a sovereignty, incompatible with the reciprocal independence of nations. Furthermore, two nations cannot advantageously grant one another, by special conventions, the reciprocal right of visit in peace. The appreciation of the utility of conventions of this nature is undoubtedly a political question. But it is certain, that, as such conventions imply an abandonment of the sovereignty, which is, in its very essence, inalienable, and incapable of being parted with, the two nations which have mutually given up their rights can only have made a temporary abandonment of them, which no lapse of time can render definitive."

Part of Masse's opinion is true. In this instance the visitation certainly is an act of sanitary police; but the statement, that on the part of the visitor it implies a sovereignty over the visited, or that the visited have surrendered

¹ See Marshall on Insurance, Book i., chap. 9, sect. 6, Burrill's Law Dictionary, etc.

² "Bills of health," "passports of health," "letters of health," etc., are said to have been first used in 1527, during a fatal plague in Italy. In 1596 a Turkish company in Aleppo established a like practice. In 1636 a bill of health was made obligatory in England, but they did not come into general use until 1665. The earliest quarantine was against the Black Death, and was instituted by the Viscount Bernabo of Reggio, Jan. 17, 1374. Goods were confiscated, and the admission to the city of persons from infected places was forbidden under pain of death. The first lazaretto was established about 1403. The first council of health, or board of health, the "Sopra la Sanita," was founded in Venice in 1485, and was composed of three nobles. In 1585 they were empowered to impose improvement, and to sentence to death any infraction of their rules and regulations; and from their decisions there was no appeal. The captain of every ship was obliged to show at their lazarettos a bill of health. This bill of health was written and issued by the consuls of the different commercial nations.

sovereignty upon such visit, cannot be defended upon logical grounds, nor also that it is incompatible with the reciprocal independence of nations. Nor does the writer see that nations cannot advantageously grant one another, by special conventions, agreements, or treaty, the reciprocal right of sanitary visitation and search inuring to the common weal of both; nor is it seen, from a sanitary point of view, that such conventions imply an abandonment of any sovereignty whatever. The position that two or more nations cannot grant by treaty the right of visitation in time of peace, is, to use the words of an eminent jurist, "simply absurd."

Lords Aberdeen and Palmerston assert that the right of visitation and search cannot exist in time of *peace*, independent of treaty; and this assertion, says Lawrence, is established as well by institutional writers as by the practice of nations.

I have now to offer my views upon what has been already termed "the right of sanitary visitation and search."

This right is a peaceful right, to be exercised within the territorial jurisdiction of the contracting parties; to be exercised by civil officers at the port of entry to which the vessel is bound, irrespective of the nationality of the vessel; is to exist, if called into existence, at the will of the consenting parties; is an essential to the public-health interests of the agreeing parties; is for the purpose of determining exclusively the sanitary condition of the vessel, cargo, passengers, and crew, that they are not severally and collectively contraband of public health; is in the interests of peace, humanity, civilization, and commerce; and is to be regulated by treaty.

The terms "contraband of public health" have been used. The word has its derivation from "contra," "bannum,"—under the ban, against public proclamation, prohibited. It is suggested for consideration the propriety of declaring by legal proclamation certain articles as are known to be more or less the carriers of disease-poisons shipped from infected ports as contraband of public health, under certain circumstances affecting the health of the port. To what extent this should be carried, both as to time and place, the writer is not now prepared to say. The government of Portugal has taken a step in that direction by prohibiting the introduction of certain articles from infected ports. In New Orleans in 1881 a committee of the medical and sanitary associations divided commercial articles for such purposes into three classes. The report of the committee on quarantine regulations made to the Fourth National Sanitary Convention, 1860, also divided all merchandise for quarantine purposes into three classes. The law of Denmark in regard to the introduction of infectious diseases makes provision for a *proclamation* forbidding the importation of certain articles arriving at the ports of the kingdom from infected or suspected places.

Austria-Hungary, Turkey, Russia, England, Germany, Italy, and the regency of Tunis classify merchandise for quarantine purposes; and in Spain certain articles of merchandise are "suspected" in vessels arriving with "foul" bills of health. The further consideration of this question becomes a matter of detail.

The writer is of course cognizant of all the differences between the right of search and its exercise as defined by writers upon international law and the proposed sanitary right of search. The differences, he submits, are well defined; but there is no controverting the fact that it is a search, and he admits it in its entirety. What restrictions should be made to secure its practical efficiency, and prevent any abuse of the proposed right, is a question which he is not competent to discuss, as it passes from the domain of international jurisprudence to the complexities of local legislation. It certainly appears to him that it is within the scope of the enlightened jurists of the day to determine the mode of overcoming the difficulties, and to reduce to harmonious action the various rulings. That which may in the outset be considered in such matters as a courtesy between nations, becomes, in the lapse of time, custom; and custom makes law.

It is not desired, nor is it deemed advisable, that an inquisitorial search should be made: the search and visit are to be made in the interests of the public health of all concerned, by mutual consent, and the sovereignty of the vessel jealously respected under all the circumstances. I know the delicate nature of the ground upon which I tread, and in these matters would inculcate no sentimental affability, but a manly recognition of doing unto others as we would have them do unto us. It is, however, an acknowledged axiom of universal law, that every party, while exercising his own rights, must take care not to violate the rights of others. "*Sic utere tuo, ut non alienum laedas.*"

Furthermore, Woolsey states that "it is admitted by all, that within the waters which may be called the territory of nations, as within a marine league, or in creeks and bays, the vessels of a friendly state may be boarded and searched on suspicion of being engaged in unlawful commerce, or of violating the laws concerning revenue," and also observes "that this kind of right of search is an accident of sovereignty in a state of peace, but is confined, in its exercise, to a small range of the sea."

Of like character, it must be conceded, is the right of visitation and examination made by quarantine and health officers. Now, it is only proposed to subject this same right of sanitary search, as executed by the quarantine officers at the ports of entry, to the consuls of the agreeing powers at the ports of departure, and under such restrictions that no offence occurs to the sovereignty of said port of departure. There are no inherent difficulties in the matter, none certainly which a civilized jurisprudence cannot readily set aside. Mutual respect and forbearance should characterize this sanitary search for peaceful and humane objects; and such forbearance and respect is placed upon the opposite scale to the offensive belligerent right founded upon distrust, and the anger engendered by a state of war. It appears to me, in the language of Mr. Woodbury, "that it is within the province of a sovereign nation to do what is just and honorable as to the world at large, or as to the general interests of humanity."

"If," said Lord Stowell, in his decision in the case of the French vessel,

the "Louis," in 1817, "this right of war is imported into peace by convention, it will be for the prudence of states to regulate in that convention the exercise of the rights with all the softenings of which it is capable."

In considering the whole matter, it seems that the progress of the law of the right of search, from perhaps its earliest enunciation in the "Consolato del Mare," or the antecedent "Rhodian laws," and the "Rôles d'Olerón," to its present legal limitation, as well as the proposed extension of its use as a sanitary measure involving the protection of the health interests of nations, emerges from the slow but steady advances in civilization.

Most of the argument, the writer admits, is in behalf of the sanitary inspection of vessels, cargoes, passengers, and crews; and he trusts to be excused for any earnestness in presenting it, as he believes it to be the primary object of sanitary interest, in order to prevent the introduction from foreign ports of contagious and infectious diseases. The knowledge of the condition of a port from which a vessel sails, is, however, of secondary importance, but is not at all to be undervalued.

Diseases may be introduced, (1) By foul vessels with stagnant and putrid bilge-water, and the drippings and drainings from putrescible cargoes; (2) By cargoes of rags, woollens, and the like animal and vegetable articles (porous in character) from ports where contagious and infectious diseases existed whilst the vessel was being laden; (3) By filthy bedding, baggage, and clothing of emigrants in overcrowded vessels; (4) By the poisoned air in the hold; (5) By diseased passengers being crowded together; (6) By diseased passengers.

Always a vessel, — a ship the carrier of disease. Quarantine establishments costly in construction, costly in maintenance, vexatious and harassing to mercantile interests, have their foundations in foul ships as the carriers of disease-poisons.

I am disposed, both from my own observation and experience, to accept the position of M. Fauvel (1871) that the nature of all quarantines is determined by the sanitary condition of the ship. This places the sanitary condition of the ship as of primary and quarantine of secondary importance in the means of prevention of disease and the protection of public health. Considered as a financial question, these establishments would be reduced to their minimum of expense and mercantile annoyance by attention to the exact conditions detailed upon the bill of health. It seems easy to have the jurist frame a law which will prevent this state of things, and not interfere with commerce. The whole point to be presented to him is, to secure a clean ship, clean cargo, clean passengers, clean crew, and sailing from a clean port. It is so simple, so plain, that it appears to me it could all be accomplished by the simplest code of Naval Hygiene, — save the clean port, which, of course, is in the domain of municipal sanitation. Were proper officers appointed at every port, with power to examine into the condition of all vessels sailing thence in respect to construction, dryness, and ventilation, the health and number of the crew, the condition and accommodation of passengers, the sufficiency of the food and water, and the general cleanliness of the vessel itself, and of the persons, cloth-

ing, and bedding of her entire company, and to allow no vessel to sail that in all these matters falls below the proper hygienic standard; and were the officers of all vessels enjoined under severe penalties to see to their cleanliness, dryness, and ventilation during the entire voyage, as well as to the carrying into effect of these measures necessary to insure the health of all on board, — much would be done to prevent the occurrence of disease, before or after the arrival of a vessel, either among its own company, or, through it, among the people of the port, to which its cargo, crew, and passengers are landed.

Associated with the bill of health should be the “log-book,” another of the ship’s papers.

The log of American vessels, if kept according to the Revised Statutes, sect. 4290 (see Appendix VII.), will give in a measure the condition of the passengers and crew during the voyage so far as recording the occurrence and cause of a death or the outbreak of disease. It is suggested, that at all times the precautions taken to secure cleanliness, ventilation, dryness, and other sanitary measures as tend to the preservation and promotion of health of the passengers and crew, should be noted in the log.

The 17th section of the Passenger Act of 1855 (Appendix VIII.) provides for a report to the Secretary of the Treasury by the collector of the port of as much as could be expected regarding the sanitary condition of the vessel, passengers, and crew during the voyage.

Sect. 9 of the proposed Passenger Act of 1881 (Appendix IX.), presented by the Hon. P. V. Deuster, M.C., of Wisconsin, to Congress, proposes a much more detailed sanitary history of the vessel, passengers, and crew, to be delivered to the officer of customs who first comes on board, and enforces the provisions of the section by penalty.

With these papers the boarding officer at any port would be enabled to determine if a vessel requires the visit of the health officer of the port, if she should proceed to the quarantine station, or continue the course directly for her wharf, dock, or anchorage.

It was asserted at the International Medical Congress in London, Aug. 3, 1881, that the conclusions of the International Sanitary Conference of Washington were not satisfactory, and will give no practical result. In the enumeration of the proper basis for an international agreement, it was stated that it was necessary: —

1. To secure prompt and reliable information of the existence of certain diseases.
2. To communicate to all concerned this information.
3. The agents of the port of destination of a vessel to be permitted to make an inspection.
4. As a means of communication in emergency, these agents to use the telegraph.
5. That, in the event of the issue of a bill of health, it should be in the form proposed by the International Sanitary Conference of Washington.

I have to state that the statement can hardly be based upon a knowledge of facts at all, and I beg leave to present some of the achieved results of the conference.

The conference, in its Final Act, determined, —

“Bills of health shall be in the form hereto annexed.” (Appendix VI.) This form being that presented by the delegates of the United States, and taken from the National Board of Health form, as modified by the Board at one of its sessions.

Bills of health shall be delivered at the port of departure by the responsible sanitary agent of the central government. *The consul of the country of destination shall have the right to be present at the examination of ships* made by the representative of the territorial government, *under such rules as may be laid down by international agreement or treaty, and the authority to authenticate the bill of health, and to add thereon such remarks as he may deem necessary.*

An inspection of the bill of health, as recommended by the International Sanitary Conference of Washington, will reveal to any thoughtful sanitarian the fact that all the points enumerated as the proper basis for an international agreement are accomplished facts, so far as the conference is concerned, and that once again in its history, demanded by the progress of scientific sanitation, does the bill of health resume its primary and legitimate rank as a sanitary document.

To make out the bill of health, as required by the conference, information as to the existence of contagious and infectious disease must, *ex necessitate rei*, be secured.

The bill of health is also the means by which said information is communicated.

That, to issue such a bill of health, a sanitary right of search is admitted to the consul of the port of destination; the sanitary agents of the territory being present to furnish the information, and to guard against any infraction of the sovereignty of the vessel or port.

It may be a question to be decided in the future, but the writer is of the opinion that the permission to use the telegraph in emergencies affecting the public health cannot be considered as “privileged communications” are considered. The common weal does not permit of such construction in this matter as a point of privilege.

The writer is disposed to estimate the bill of health, as proposed by the conference, at a much higher value than it appears at first sight to have. The bill may not meet all the requirements of the sanitarian, but it is an enormous advance in sanitary science. Each vessel should be compelled by law to carry one as part of her papers; and, whilst not refusing entrance to our ports of any vessels without such bill properly authenticated, a fine should be imposed upon such as fail to produce this evidence as to the sanitary condition of the vessel and of the port of departure. The right to impose such a penalty is an inherent right of the General Government; and in providing for

the common welfare of the people, both as regards health and commerce, a properly authenticated bill of health, as it involves an inspection of the vessel, its cargo, passengers, and crew, as well as its previous sanitary history, and access to all sources of information as to the sanitary condition of the port of departure, will furnish to quarantine and health officers data upon which they can, other things being equal, base an intelligent opinion upon the necessity for at least admitting a vessel to free *pratique*, or such detention in quarantine as the local law may determine. A proper bill of health is the sanitary patent of the vessel that she is not dangerous to the lives of the community, and is the ship's safeguard in all ports against harsh restrictive quarantines; and I am disposed to think, that, in a reflex manner, it may have its influence in showing the way to improved sanitary work in otherwise foul ports. It may be that a vessel should be cleared without a bill of health. The refusal to take out the bill of health from the consulate should not be a bar to her clearance from the port of departure; but its absence from the ship's papers upon her arrival within any revenue district should subject the vessel to a fine of \$500, as well as the subjection to examination and inspection at the port of entry as a suspected vessel, and liable, therefore, to be placed in quarantine. Such action brings the protection of the public health, so far as vessels are concerned, under national supervision, but does not interfere with any right of the States to enforce their respective quarantine laws where they do not affect the General Government. Perhaps at this time this is all that can be obtained.

It will be observed in this connection also, that there is required "a responsible sanitary agent of the central government." Out of this arises the necessity of a National Board of Health, as the responsible sanitary agent of the central government. It needs no calling the attention of the Association, that in the United States, in many States, and in many more municipalities, there are no responsible sanitary agents of even the State or municipality; and a central bureau should be empowered to collect, formulate, and publish all sanitary information concerning such States and municipalities, as well as to do the like for those States and municipalities where health officers are recognized by law. It is demonstrated that the acceptance of the bill of health, as proposed by the International Sanitary Conference of Washington, carries with it all the requirements necessary for a proper international sanitary agreement.

Viewed simply from a realistic politico-economical stand-point, I believe that such an international agreement would be but a step in the onward progress of that process of assimilation now evident amongst all civilized nations, which has for its ultimate end a general security upon all matters affecting the common weal. The time is opportune for this departure: it secures in a degree the greatest good for the greatest number. Behind it is the sanctity of human life, and "the inalienable rights to life, liberty, and the pursuit of happiness," to secure which "governments were instituted amongst men." Justinian wrote that "the exigencies and necessities of mankind have induced all nations to constitute certain rules of right."

Hobbes states "that the law of nations is the law of nature applied to states and nations."

Vattel remarks, "If a nation is obliged to preserve itself, it is not less obliged to preserve all its members. The nation owes this to itself, since the loss, even of one of its members, weakens it, and is injurious to its own preservation."

Numerous other authorities have enunciated more or less distinctly these propositions, and it is considered that the time has arrived at which it is necessary to interpolate in the law of nations some rule applicable to the public-health interests of mankind. Such a rule appears to flow from the opinions above stated.

The preamble presented by the committee of the International Sanitary Conference of Washington, that

"Nations have an inherent power to prevent, without any breach of their international obligations, the introduction into their territories of contagious or infectious disease," and which was modified by the conference so as to read, that

"Nations have within the limits of international law the right to take the precautions they consider necessary in order to prevent the introduction into their territories of contagious diseases," would have been the inauguration of such a rule in action. This, however, is another accomplished result of the International Sanitary Conference; as it distinctly enunciates that which the writer feels assured will in time become an axiom in the law of nations. It seems that such a law applied to nations is but a logical deduction from the rule that "self-preservation is the first law of nature," as well as an obligation imposed by nature on all.

The rules and regulations for securing the best sanitary condition of vessels (including their cargoes, passengers, and crews) coming to the United States from any foreign port where any contagious or infectious disease exists—prepared by the National Board of Health in accordance with the provisions of the Act of June 2, 1879, entitled "An Act to prevent the introduction of infectious or contagious diseases into the United States"—have their basis in the inherent right and obligation of nations to protect and preserve themselves from pestilence. (Appendix X.)

As to the matter of the introduction of contagious and infectious diseases from adjacent foreign countries, not separated by such geographical boundaries as the seas along other highways of commerce,—such as Canada and Mexico in their relations to the United States,—it is simpler than at first sight appears; but the detail for such prevention needs separate consideration apart from this paper. It is suggested for the consideration of the legislators, that, in all future treaties with foreign powers, provision should be made for the protection of the public health of the contracting parties; and the access of consular and other like accredited officers of the governments to all sources of information relating to it should also be secured by stipulation.

It will be noticed that the writer has presented the subject of national sani-

tary jurisprudence in its relations almost exclusively to quarantine, and that, in considering the matter of international sanitary jurisprudence, existing sources of information represented by the bill of health as proposed by the United States delegates to the International Sanitary Conference of Washington has been used as the basis of these remarks. He asks the lenient consideration of the Association for the imperfections of this reconnoissance into the domain of the jurisprudence of hygiene. No opinion, however, has been stated that is not founded on fact; nor has any deduction been advanced which he does not believe to be logical from the premises and in accordance with the principles of science. In conclusion, he believes, with Ordronaux, "that the basis of human society lies in the recognition of the first law of nature, and that the protection of life, after all, must ever be the culminating point of human legislation."

The following list of books, pamphlets, etc., have been read and consulted more or less in the preparation of this paper:—

Vattel, "Law of Nations;" Ward, "Inquiry into the Foundation and History of the Law of Nations;" Desty's "Shipping and Admiralty;" Wheaton, "History of the Law of Nations," "Elements of International Law;" Marshall on "Insurance;" Woolsey, "International Law;" Lawrence, "Visitation and Search;" Kent's "Commentaries;" Abbot on "Shipping;" Story on the "Constitution;" Jacobsen's "Sea Laws;" Pardessus, "Collection de Lois Maritimes," "Cours de droit Commercial;" "The Black Booke of the Admiralty;" "Revised Statutes of the United States;" Wharton, "Decisions of the Supreme Court;" "Howard License Cases;" Burrill's "Law Dictionary;" Baker, "The Laws relating to Quarantine;" "Report of the Seventh Annual Conference of the Association for the Reform and Codification of the Law of Nations;" "The Southern Law Journal and Reporter;" "The General Sanitary Maritime Regulations of the Kingdom of Portugal;" Proust's "Hygiene International;" Rumsey's "Essays on State Medicine;" Beckmann's "History of Inventions;" the reports of the Quarantine and Sanitary Conventions (1857-60); the works of Jeremy Bentham; McCulloch's Commercial Dictionary; McElrath's Commercial Dictionary; various papers upon State medicine, etc., published in the American Public Health Association reports and transactions of American Medical Association, as well as monographs by Drs. H. I. Bowditch, J. S. Billings, U.S.A., J. L. Cabell, S. E. Chaillé, A. L. Carroll, Edwin Chadwick, B. Dowler, E. Harris, E. McClellan, U.S.A., John Simon, D.C.L., the Hon. T. G. Jones, and others.

I desire also to acknowledge the courtesy of the Hon. Samuel F. Phillips, Solicitor-General of the United States, for placing at my disposition for reference the library of the Department of Justice, as well as to the Hon. A. R. Spofford, librarian of Congress, and Mr. T. F. Dwight, librarian of the Department of State, for similar favors.

APPENDIX I.

AN ACT TO PREVENT THE INTRODUCTION OF INFECTIOUS OR CONTAGIOUS DISEASES INTO THE UNITED STATES, AND TO ESTABLISH A NATIONAL BOARD OF HEALTH.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That there shall be established a National Board of Health, to consist of seven members, to be appointed by the President, by and with the advice and consent of the Senate, not more than one of whom shall be appointed from any one State, whose compensation, during the time when actually engaged in the performance of their duties under this Act, shall be ten dollars per diem each and reasonable expenses, and of one medical officer of the Army, one medical officer of the Navy, one medical officer of the Marine Hospital Service, and one officer from the Department of Justice, to be detailed by the Secretaries of the several Departments, and the Attorney-General, respectively; and the officers so detailed shall receive no compensation. Said Board shall meet in Washington within thirty days after the passage of this Act, and in Washington or elsewhere from time to time upon notice from the president of the Board, who is to be chosen by the members thereof, or upon its own adjournments, and shall frame all rules and regulations authorized or required by this Act, and shall make or cause to be made such special examinations and investigations at any place or places within the United States, or at foreign ports, as they may deem best, to aid in the execution of this Act and the promotion of its objects.

SECT. 2. The duties of the National Board of Health shall be, to obtain information upon all matters affecting the public health, to advise the several departments of the government, the executives of the several States, and the commissioners of the District of Columbia, on all questions submitted by them, or whenever, in the opinion of the Board, such advice may tend to the preservation and improvement of the public health.

SECT. 3. That the Board of Health, with the assistance of the Academy of Science, which is hereby requested and directed to co-operate with them for that purpose, shall report to Congress at its next session a full statement of its transactions, together with a plan for a national public-health organization, which plan shall be prepared after consultation with the principal sanitary organizations, and the sanitarians of the several States of the United States, special attention being given to the subject of quarantine, both maritime and inland, and especially as to regulations which should be established between State or local systems of quarantine, and a national quarantine system.

SECT. 4. The sum of fifty thousand dollars, or so much thereof as may be

necessary, is hereby appropriated to pay the salaries and expenses of said Board, and carry out the purposes of this Act. [*Approved March 3, 1879.*]

APPENDIX II.

AN ACT TO PREVENT THE INTRODUCTION OF CONTAGIOUS OR INFECTIOUS DISEASES INTO THE UNITED STATES.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That it shall be unlawful for any merchant ship or vessel from any foreign port where any contagious or infectious disease exists, to enter any port of the United States except in accordance with the provisions of this Act, and all rules and regulations of State boards of health, and all rules and regulations made in pursuance of this Act; and any such vessel which shall enter, or attempt to enter, a port of the United States in violation thereof, shall forfeit to the United States a sum, to be awarded in the discretion of the court, not exceeding one thousand dollars, which shall be a lien upon said vessel, to be recovered by proceedings in the proper district court of the United States. And in all such proceedings the United States district attorney for such district shall appear on behalf of the United States, and all such proceedings shall be conducted in accordance with the rules and laws governing cases of seizure of vessels for violation of the revenue laws of the United States.

SECT. 2. All such vessels shall be required to obtain from the consul, vice-consul, or other consular officer of the United States at the port of departure, or from the medical officer, where such officer has been detailed by the President for that purpose, a certificate in duplicate setting forth the sanitary history of said vessel, and that it has in all respects complied with the rules and regulations in such cases prescribed for securing the best sanitary condition of the said vessel, its cargo, passengers, and crew; and said consular or medical officer is required, before granting such certificate, to be satisfied the matters and things therein stated are true; and for his services in that behalf he shall be entitled to demand and receive such fees as shall by lawful regulation be allowed, to be accounted for as is required in other cases.

That, upon the request of the National Board of Health, the President is authorized to detail a medical officer to serve in the office of the consul at any foreign port, for the purpose of making the inspection, and giving the certificates hereinbefore mentioned: *provided*, that the number of officers so detailed shall not exceed at any one time six; *provided further*, that any vessel, sailing from any such port without such certificate of said medical officer, entering any port of the United States, shall forfeit to the United States the sum of five hundred dollars, which shall be a lien on the same, to be recovered by proceedings in the proper district court of the United States. And in all such proceedings the United States district attorney for such district shall appear on behalf of the United States, and all such proceedings

shall be conducted in accordance with the rules and laws governing cases of seizure of vessels for violation of the revenue laws of the United States.

SECT. 3. That the National Board of Health shall co-operate with, and, so far as it lawfully may, aid, State and municipal boards of health in the execution and enforcement of the rules and regulations of such boards to prevent the introduction of contagious or infectious diseases into the United States from foreign countries, and into one State from another; and at such ports and places within the United States as have no quarantine regulations under State authority, where such regulations are, in the opinion of the National Board of Health, necessary to prevent the introduction of contagious or infectious diseases into the United States from foreign countries, or into one State from another, and at such ports and places within the United States where quarantine regulations exist under the authority of the State, which, in the opinion of the National Board of Health, are not sufficient to prevent the introduction of such diseases into the United States, or into one State from another, the National Board of Health shall report the facts to the President of the United States, who shall, if, in his judgment, it is necessary and proper, order said Board of Health to make such additional rules and regulations as are necessary to prevent the introduction of such diseases into the United States from foreign countries, or into one State from another, which, when so made and approved by the President, shall be promulgated by the National Board of Health, and enforced by the sanitary authorities of the States, where the State authorities will undertake to execute and enforce them; but, if the State authorities shall fail or refuse to enforce said rules and regulations, the President may detail an officer or appoint a proper person for that purpose.

The Board of Health shall make such rules and regulations as are authorized by the laws of the United States and necessary to be observed by vessels at the port of departure and on the voyage, where such vessels sail from any foreign port or place at which contagious or infectious disease exists, to any port or place in the United States, to secure the best sanitary condition of such vessel, her cargo, passengers, and crew; and, when said rules and regulations have been approved by the President, they shall be published, and communicated to and enforced by the consular officers of the United States: *provided*, that none of the penalties herein imposed shall attach to any vessel, or any owner or officer thereof, till the Act and the rules and regulations made in pursuance thereof shall have been officially promulgated for at least ten days in the port from which said vessel sailed.

SECT. 4. It shall be the duty of the National Board of Health to obtain information of the sanitary condition of foreign ports and places from which contagious and infectious diseases are or may be imported into the United States; and to this end the consular officers of the United States, at such ports and places as shall be designated by the National Board of Health, shall make to said Board of Health weekly reports of the sanitary condition of the ports and places at which they are respectively stationed, according to such forms as said Board of Health may prescribe; and the Board of Health shall also

obtain, through all sources accessible, including State and municipal sanitary authorities throughout the United States, weekly reports of the sanitary condition of ports and places within the United States ; and shall prepare, publish, and transmit to the medical officers of the Marine Hospital Service, to collectors of customs, and to State and municipal health officers and authorities, weekly abstracts of the consular sanitary reports, and other pertinent information received by said Board ; and shall also, as far as it may be able, by means of the voluntary co-operation of State and municipal authorities, of public associations and private persons, procure information relating to the climatic and other conditions affecting the public health ; and shall make to the Secretary of the Treasury an annual report of its operations, for transmission to Congress, with such recommendations as it may deem important to the public interests ; and said report, if ordered to be printed by Congress, shall be done under the direction of the Board.

SECT. 5. That the National Board of Health shall from time to time issue to the consular officers of the United States and to the medical officers serving at any foreign port, and otherwise make publicly known, the rules and regulations made by it and approved by the President, to be used and complied with by vessels in foreign ports for securing the best sanitary condition of such vessels, their cargoes, passengers, and crews, before their departure for any port in the United States, and in the course of the voyage ; and all such other rules and regulations as shall be observed in the inspection of the same on the arrival thereof at any quarantine station at the port of destination, and for the disinfection and isolation of the same, and the treatment of cargo and persons on board, so as to prevent the introduction of cholera, yellow fever, or other contagious or infectious diseases ; and it shall not be lawful for any vessel to enter said port to discharge its cargo or land its passengers except upon a certificate of the health officer at such quarantine station, certifying that said rules and regulations have in all respects been observed and complied with, as well on his part as on the part of the said vessel and its master, in respect to the same and to its cargo, passengers, and crew ; and the master of every such vessel shall produce and deliver to the collector of customs at said port of entry, together with the other papers of the vessel, the said certificates required to be obtained at the port of departure, and the certificate herein required to be obtained from the health officer at the port of entry.

SECT. 6. That to pay the necessary expenses of placing vessels in proper sanitary condition, to be incurred under the provisions of this Act, the Secretary of the Treasury be, and he hereby is, authorized and required to make the necessary rules and regulations fixing the amount of fees to be paid by vessels for such service, and the manner of collecting the same.

SECT. 7. That the President is authorized, when requested by the National Board of Health, and when the same can be done without prejudice to the public service, to detail officers from the several departments of the government, for temporary duty, to act under the direction of said Board, to carry out the provisions of this Act ; and such officers shall receive no additional

compensation except for actual and necessary expenses incurred in the performance of such duties.

SECT. 8. That, to meet the expenses to be incurred in carrying out the provisions of this Act, the sum of five hundred thousand dollars, or so much thereof as may be necessary, is hereby appropriated, to be disbursed under the direction of the Secretary of the Treasury on estimates to be made by the National Board of Health, and to be approved by him. Said National Board of Health shall, as often as quarterly, make a full statement of its operations and expenditures under this Act to the Secretary of the Treasury, who shall report the same to Congress.

SECT. 9. That so much of the Act entitled "An Act to prevent the introduction of contagious or infectious diseases into the United States," approved April twenty-ninth, eighteen hundred and seventy-eight, as requires consular officers or other representatives of the United States at foreign ports to report the sanitary condition of and the departure of vessels from such ports to the Supervising Surgeon-General of the Marine Hospital Service, and so much of said Act as requires the Surgeon-General of the Marine Hospital Service to frame rules and regulations, and to execute said Act, and to give notice to Federal and State officers of the approach of infected vessels, and furnish said officers with weekly abstracts of consular sanitary reports, and all other Acts and parts of Acts inconsistent with the provisions of this Act, be, and the same are hereby, repealed.

SECT. 10. This Act shall not continue in force for a longer period than four years from the date of its approval. [*Approved June 2, 1879.*]

APPENDIX III.

TITLE LVIII.—THE PUBLIC HEALTH.

SECT. 4792. The quarantines and other restraints established by the health laws of any State respecting any vessels arriving in or bound to any port or district thereof, shall be duly observed by the officers of the customs revenue of the United States, by the masters and crews of the several revenue cutters, and by the military officers commanding in any fort or station upon the sea-coast; and all such officers of the United States shall faithfully aid in the execution of such quarantines and health laws, according to their respective powers and within their respective precincts, and as they shall be directed from time to time by the Secretary of the Treasury. But nothing in this title shall enable any State to collect a duty of tonnage or impost without the consent of Congress.

SECT. 4793. Whenever, by the health laws of any State, or by the regulations made pursuant thereto, any vessel arriving within a collection-district of such State is prohibited from coming to the port of entry or delivery by law established for such district, and such health laws require or permit the cargo of the vessel to be unladen at some other place within or near to such district,

the collector, after due report to him of the whole of such cargo, may grant his warrant or permit for the unloading and discharge thereof, under the care of the surveyor, or of one or more inspectors, at some other place where such health laws permit, and upon the conditions and restrictions which shall be directed by the Secretary of the Treasury, or which such collector may, for the time, deem expedient for the security of the public revenue.

SECT. 4794. There shall be purchased or erected, under the orders of the President, suitable warehouses, with wharves and enclosures, where merchandise may be unladen and deposited from any vessel which shall be subject to a quarantine or other restraint, pursuant to the health laws of any State, at such convenient places therein as the safety of the public revenue and the observance of such health laws may require.

SECT. 4795. Whenever the cargo of a vessel is unladen at some other place than the port of entry or delivery under the foregoing provisions, all the articles of such cargo shall be deposited, at the risk of the parties concerned therein, in such public or other warehouses or enclosures as the collector shall designate, there to remain under the joint custody of such collector and of the owner or master or other person having charge of such vessel, until the same are entirely unladen or discharged, and until the articles so deposited may be safely removed without contravening such health laws. And, when such removal is allowed, the collector having charge of such articles may grant permits to the respective owners or consignees, their factors or agents, to receive all merchandise which has been entered, and the duties accruing upon which have been paid, upon the payment by them of a reasonable rate of storage, which shall be fixed by the Secretary of the Treasury for all public warehouses and enclosures.

SECT. 4796. The Secretary of the Treasury is authorized, whenever a conformity to such quarantines and health laws requires it, and in respect to vessels subject thereto, to prolong the terms limited for the entry of the same, and the report or entry of their cargoes, and to vary or dispense with any other regulations applicable to such reports or entries. No part of the cargo of any vessel shall, however, in any case, be taken out or unladen therefrom, otherwise than is allowed by law, or according to the regulations hereinafter established.

SECT. 4797. Whenever, by the prevalence of any contagious or epidemic disease in or near the place by law established as the port of entry for any collection-district, it becomes dangerous or inconvenient for the officers of the revenue employed therein to continue the discharge of their respective offices at such port, the Secretary of the Treasury, or, in his absence, the First Comptroller, may direct the removal of the officers of the revenue from such port to any other more convenient place, within, or as near as may be to, such collection-district. And at such place such officers may exercise the same powers, and shall be liable to the same duties, according to existing circumstances, as in the port or district established by law. Public notice of any such removal shall be given as soon as may be. (See sect. 1776.)

SECT. 4798. In case of the prevalence of a contagious or epidemic disease at the seat of government, the President may permit and direct the removal of any or all the public offices to such other place or places as he shall deem most safe and convenient for conducting the public business. (See sect. 1776.)

SECT. 4799. Whenever in the opinion of the chief justice, or, in case of his death or inability, of the senior associate justice of the Supreme Court, a contagious or epidemic sickness shall render it hazardous to hold the next stated session of the court at the seat of government, the chief or such associate justice may issue his order to the marshal of the Supreme Court, directing him to adjourn the next session of the court to such other place as such justice deems convenient. The marshal shall thereupon adjourn the court, by making publication thereof in one or more public papers printed at the seat of government, from the time he shall receive such order until the time by law prescribed for commencing the session. The several circuit and district judges shall, respectively, under the same circumstances, have the same power, by the same means, to direct adjournments of the several circuit and district courts to some convenient place within their districts respectively. (See sect. 1776.)

SECT. 4800. The judge of any district court, within whose district any contagious or epidemic disease shall at any time prevail, so as, in his opinion, to endanger the lives of persons confined in the prison of such district, in pursuance of any law of the United States, may direct the marshal to cause the persons so confined to be removed to the next adjacent prison where such disease does not prevail, there to be confined until they may safely be removed back to the place of their first confinement. Such removals shall be at the expense of the United States.

SECT. 1776. Whenever any public office is removed by reason of sickness which may prevail in the town or city where it is located, a particular account of the cost of such removal shall be laid before Congress. (See sects. 4797-4799.)

APPENDIX IV.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the President of the United States is hereby authorized to call an international sanitary conference to meet at Washington, District of Columbia, to which the several powers having jurisdiction of ports likely to be infected with yellow fever or cholera shall be invited to send delegates, properly authorized, for the purpose of securing an international system of notification as to the actual sanitary condition of ports and places under the jurisdiction of such powers, and of vessels sailing therefrom. [Approved May 14, 1880.]

APPENDIX V.

LEVY *v.* COSTERTON, I STARKIE, 212.

“Under a covenant in a charter party that the ship shall be provided with ‘every thing needful and necessary for the voyage,’ the owner is bound to provide the proper documents as well as necessaries for the ship itself, and is therefore bound to provide a bill of health, if it be essential to the performance of the voyage, within a reasonable time within the intention of the parties.” The counsel for the defendant contended, Firstly, that no documents were included in the terms of the covenant; and secondly, that, supposing that the terms of the covenant included documents, they did not extend to a bill of health, which was not a document required by the general law of States.

Gibbs, Chief Justice, was of opinion that the words in fair construction were not to be confined to such things as should be necessary for the ship itself, but that they comprehended every thing necessary for the voyage; and, upon the second point, his lordship was of opinion that a bill of health was to be considered as a necessary document, since it was essential to the performance of the voyage, according to the intention of the parties, within a reasonable time.

The verdict was for the plaintiff.

APPENDIX VI.

INTERNATIONAL BILL OF HEALTH.

I, _____ (the person charged to deliver the bill), at the port of _____, do hereby state that the vessel hereinafter named clears from this port under the following circumstances: —

Name of vessel :	Nature (vessel-of-war, ship, schooner, etc.) :
Tonnage :	Guns :
Apartments for passengers, No. :	Where last from :
Destination :	Name of captain :
Name of medical officer (if any) :	Total number of crew :
Total number of passengers: 1st cabin, ; 2d cabin, ; steerage, :	Cargo :

Vessel.

1. Sanitary history of the vessel :
2. Sanitary condition of vessel (before and after reception of cargo, with note of any decayed wood). Note disinfection of vessel :
3. Sanitary condition of cargo :
4. Sanitary condition of crew :
5. Sanitary condition of passengers :
6. Sanitary condition of clothing, food, water, air-space, and ventilation :

Port.

1. Sanitary condition of port and adjacent country :—
 - a. Prevailing disease (if any) :
 - b. Number of cases of and deaths from yellow fever, Asiatic cholera, plague, small-pox, or typhus fever during the week preceding :

Number of cases of— Yellow fever : Asiatic cholera : Plague : Small-pox : Typhus fever :	Number of deaths from— Yellow fever : Asiatic cholera : Plague : Small-pox : Typhus fever :
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- c. Population according to the last census :
 - d. Total deaths from all causes during the preceding month :
2. Any circumstances affecting the public health existing in the port of departure to be here stated :

I CERTIFY that the foregoing statements are made by _____, who has personally inspected said vessel ; that I am satisfied that the said statements are correct ; and I do further certify that the said vessel leaves this port, bound for _____, in _____

IN WITNESS WHEREOF I have hereunto set my hand and the seal of office, at the port of _____, this _____ day of _____, 188 _____, o'clock.

[SEAL.] _____ [Signature.]

APPENDIX VII.

LOG-BOOK.

SECT. 4290. . . . *Fifth*, Every case of illness or injury happening to any member of the crew, with the nature thereof, and the medical treatment.

Sixth, Every case of death happening on board, with the cause thereof.

Seventh, Every birth happening on board, with the sex of the infant and the names of the parents.

Eighth, Every marriage taking place on board, with the names and ages of the parties.

SECT. 4291. Every entry hereby required to be made in the official log-book shall be signed by the master and by the mate, or some other one of the crew : and every entry in the official log-book shall be made as soon as possible after the occurrence to which it relates ; and, if not made on the same day as the occurrence to which it relates, shall be made and dated so as to show the date of the occurrence, and of the entry respecting it : and in no case shall any entry therein, in respect of any occurrence happening previously to

the arrival of the vessel at her final port, be made more than twenty-four hours after her arrival. (See sect. 4597.)

SECT. 4292. If, in any case, the official log-book is not kept in the manner hereby required, or if any entry hereby directed to be made in any such log-book is not made at the time and in the manner hereby directed, the master shall, for each such offence, be liable to a penalty of not more than twenty-five dollars; and every person who makes, or procures to be made, or assists in making, any entry in any official log-book in respect of any occurrence happening previously to the arrival of the vessel at her final port of discharge, more than twenty-four hours after such arrival, shall, for each offence, be liable to a penalty of not more than one hundred and fifty dollars.

APPENDIX VIII.

"PASSENGER ACT, 1855."

"SECT. 17. *And be it further enacted,* That the collector of the customs shall examine each emigrant ship or vessel on its arrival at his port, and ascertain and report to the Secretary of the Treasury the time of sailing, the length of the voyage, the ventilation, the number of passengers, their space on board, their food, the native country of the emigrants, the number of deaths, the age and sex of those who died on the voyage, together with his opinion of the cause of the mortality, if any, on board, and, if none, what precautionary measures, arrangements, or habits are supposed to have had any, and what agency in causing the exemption."

APPENDIX IX.

PROPOSED PASSENGER ACT, 1881.

"SECT. 9. *And be it further enacted,* That it shall not be lawful for the master of any such steamship or other vessel, not in distress, after the arrival of the vessel within any collection-district of the United States, to allow any person or persons, except a pilot, officer of the customs, or health officer, to come on board of the vessel, or to leave the vessel, until the vessel has been taken in charge by an officer of the customs, nor, after charge so taken, without leave of such officer, until all the passengers with their baggage have been duly landed from the vessel; and on the arrival of such steamship or other vessel within any collection-district of the United States, the master thereof shall deliver to the officer of customs who first comes on board the vessel, and makes demand therefor, a correct list, signed by the master, of all the passengers taken on board the vessel at any foreign port or place, specifying separately the names of the cabin-passengers, their age, sex, calling, and the country of which they are citizens, and the number of pieces of baggage belonging to each passenger; and also the name, age, sex, calling, and

native country of each emigrant passenger, or passengers other than cabin-passengers, and their intended destination or location, and the number of pieces of baggage belonging to each passenger, and also the location of the compartment or space occupied by each of such passengers during the voyage; and, if any of such passengers died on the voyage, the said list shall specify the name, age, and cause of death of each deceased passenger; and a duplicate of the aforesaid list of passengers, verified by the oath of the master, shall, with the manifest of the cargo, be delivered by the master to the collector of customs on the entry of the vessel. For a violation of either of the provisions of this section, or for permitting or neglecting to prevent a violation thereof, the master of the vessel shall be liable to a fine not exceeding one thousand dollars."

APPENDIX X.

RULES AND REGULATIONS FOR SECURING THE BEST SANITARY CONDITION OF VESSELS, INCLUDING THEIR CARGOES, PASSENGERS, AND CREWS, COMING TO THE UNITED STATES FROM ANY FOREIGN PORT WHERE ANY CONTAGIOUS OR INFECTIOUS DISEASE EXISTS.

[*Prepared by the National Board of Health in accordance with the provisions of an Act approved June 2, 1879, entitled "An Act to prevent the introduction of infectious or contagious diseases into the United States."*]

EXPLANATIONS.

1. The object of the following rules and regulations is to prevent the introduction into the United States of "contagious or infectious diseases."

2. The following diseases are recognized as "contagious or infectious diseases," for the purposes of these rules and regulations: viz., Asiatic cholera, yellow fever, plague, small-pox, typhus fever, and relapsing fever.

3. An "infected" port or place, in the sense of these rules, is a port or place at which either Asiatic cholera, yellow fever, plague, small-pox, relapsing fever, or typhus fever exists.

4. To secure the "best sanitary condition" of a vessel, the following points shall be observed by the owners, agents, or master of such vessel:—

A. Exclusion from the vessel, as far as possible, of persons or things known or suspected to be infected.

B. Cleanliness, dryness, and ventilation of the vessel, both preliminary to loading and during the voyage.

C. Disinfection, — that is, the destruction or removal of the causes of disease, — which includes measures of cleanliness, ventilation, fumigation, etc.

D. The crew shall not be allowed liberty on shore after nightfall in suspected localities. They shall not be allowed to sleep on deck, except under awnings. The fore-castle shall be well ventilated, and kept dry. Both in port and at sea the bilge shall be pumped out each morning and evening, or more frequently if necessary. The utmost cleanliness shall be observed at sea as well as in port. Each seaman shall have two suits of underclothing. The

clothing and bedding shall be aired every clear day. In tropical climates the men shall be required to wash their persons and change their underclothing every evening after work while in port; and each working-suit shall be washed, dried, and aired after a day's use. These regulations as to clothing, airing of bedding, and ventilation, shall, as far as possible, be observed at sea as well as in port.

RULES AND REGULATIONS.

1. All merchant ships and vessels sailing from a foreign port where contagious or infectious disease exists, for any port of the United States, must obtain from the consul, vice-consul, or other consular officer of the United States, at the port of departure, or from the medical officer, — where such officer has been detailed by the President for that purpose, — a bill of health in duplicate, which shall set forth the sanitary history of said vessel, and that it has in all respects complied with these rules and regulations.

2. No vessel shall have more than one bill of health; but, if she touches at other ports on the passage, that fact, and the condition of those ports as to the existence of contagious or infectious disease, shall be indorsed upon the original bill of health by the consul, vice-consul, consular officer, or medical officer of the United States.

3. The bill of health shall be in the form appended: —

FORM A.

No. PORT OF
THE UNITED STATES OF AMERICA — NATIONAL BOARD OF HEALTH.

Bill of Health.

I, (the person charged to deliver the bill), at the port of, do hereby state that the vessel hereinafter named clears from this port under the following circumstances: —

Name of vessel :	Nature (vessel-of-war, ship, schooner, etc.) :
Tonnage :	Guns :
Apartments for passengers, No. :	Where last from :
Destination :	Name of captain :
Name of medical officer (if any) :	Total number of crew :
Total number of passengers : 1st cabin, ; 2d cabin, ; steerage, :	Cargo :

Vessel.

1. Sanitary history of the vessel :
2. Sanitary condition of vessel (before and after reception of cargo, with note of any decayed wood). Note disinfection of vessel :
3. Sanitary condition of cargo :
4. Sanitary condition of crew :
5. Sanitary condition of passengers :
6. Sanitary condition of clothing, food, water, air-space, and ventilation :

Port.

1. Sanitary condition of port and adjacent country :—

a. Prevailing disease (if any) :

b. Number of cases of and deaths from yellow fever, Asiatic cholera, plague, small-pox, or typhus fever during the week preceding :

Number of cases of—

Yellow fever :

Asiatic cholera :

Plague :

Small-pox :

Typhus fever :

Number of deaths from—

Yellow fever :

Asiatic cholera :

Plague :

Small-pox :

Typhus fever :

c. Population according to the last census :

d. Total deaths from all causes during the preceding month :

2. Any circumstances affecting the public health existing in the port of departure to be here stated :

I CERTIFY that I have personally inspected the said vessel, and that the above statements are correct.

[Signature of medical officer.]

I CERTIFY that the foregoing statements are made by _____, who has personally inspected said vessel ; that I am satisfied that the said statements are correct ; and I do further certify that the said vessel leaves this port, bound for _____, in _____,

IN WITNESS WHEREOF I have hereunto set my hand and the seal of office, at the port of _____, this _____ day of _____, 188 _____, o'clock.

[SEAL.]

[Signature.]

4. Each consul, vice-consul, consular officer, or medical officer of the United States in a foreign port shall keep himself thoroughly acquainted with the sanitary condition of the port and its vicinity, especially with regard to the existence of contagious or infectious diseases or epidemics, and shall, upon the request of the owner, agent, or master, make, or cause to be made, an inspection of every ship or vessel bound for any port in the United States, and give the bill of health required by these regulations. Vessels carrying a foreign flag shall be inspected, when practicable, in company with the consul or consular agent of the nation to which the vessel belongs.

5. The fee for such inspection shall be such as may be fixed by the Secretary of the Treasury.

6. The certifying authority at the port of departure shall certify whether vessels carrying passengers are provided with the means of carrying out the provisions of sects. 4267 and 4293 of the Revised Statutes.

SECT. 4257. Every such vessel so employed in transporting passengers

between the United States and Europe, and having space according to law for more than one hundred such passengers, shall have at least two ventilators to purify each apartment occupied by such passengers, one of which shall be inserted in the after part and the other in the forward part of the apartment; and one of them shall have an exhausting-cap to carry off the foul air, and the other a receiving-cap to carry down the fresh air. Such ventilators shall have a capacity proportioned to the size of the apartments to be purified; namely, if the apartment will lawfully authorize the reception of two hundred such passengers, the capacity of each such ventilator shall be equal to a tube of twelve inches diameter in the clear, and in proportion for larger or smaller apartments. All such ventilators shall rise at least four feet six inches above the upper deck of any such vessel, and be of the most approved form and construction. If it appears from the report to be made and approved, as provided in sect. 4272, that such vessel is equally well ventilated by any other means, such other means of ventilation shall be deemed to be a compliance with the provisions of this section.

SECT. 4263. The master of any vessel employed in transporting passengers between the United States and Europe is authorized to maintain good discipline and such habits of cleanliness among passengers as will tend to the preservation and promotion of health; and, to that end, he shall cause such regulations as he may adopt for this purpose to be posted up, before sailing, on board such vessel, in a place accessible to such passengers, and shall keep the same so posted up during the voyage. Such master shall cause the apartments occupied by such passengers to be kept at all times in a clean, healthy state; and the owners of every such vessel so employed are required to construct the decks, and all parts of the apartments, so that they can be thoroughly cleansed; and also to provide a safe, convenient privy or water-closet for the exclusive use of every one hundred such passengers. The master shall also, when the weather is such that the passengers cannot be mustered on deck with their bedding, and at such other times as he may deem necessary, cause the deck occupied by such passengers to be cleansed with chloride of lime, or some other equally efficient disinfecting agent. And for each neglect or violation of any of the provisions of this section, the master and owner of any such vessel shall be severally liable to the United States in a penalty of fifty dollars, to be recovered in any circuit or district court within the jurisdiction of which such vessel may arrive or from which she is about to depart, or at any place where the owner or master may be found.

7. For the purpose of isolating the sick, especially those suffering from contagious or infectious diseases, every steamship or other passenger vessel shall have two compartments or spaces to be used as hospitals, one for men and the other for women. These hospitals shall, when practicable, be constructed on the main deck, or on the deck next below the uppermost deck of the vessel.

8. Every vessel, before taking on cargo or passengers, shall be clean and dry; and the certifying officer may, at his discretion, require that it shall be

thoroughly disinfected, if last from an *infected* port, or if the port of departure be itself *infected*. The examination of the vessel as to cleanliness shall be made before the cargo is taken on, and shall extend to all accessible parts, especial care being taken to note upon the bill of health the presence of decayed wood.

9. Earth and porous stone shall not be used for ballast if avoidable.

10. Merchandise or articles known to be infected shall not be received or taken on board.

11. In case the port is *infected*, the certifying authority may require that the officers, crew, and passengers shall be examined by a medical officer or physician selected for that purpose, and the result reported to him not more than twenty-four hours before certifying to the bill of health.

If small-pox exists at the port, the certifying authority shall require that the medical examination above provided shall extend to all passengers, as well as to the officers and crew, for the purpose of determining their protection against small-pox; and every person found unvaccinated, or not satisfactorily protected, shall be properly vaccinated before the vessel leaves the port; and a record of such vaccinations, including the name of each individual vaccinated, and the date of vaccination, shall be given to the master of the vessel, to be by him delivered to the quarantine authority at the port of arrival.

12. Bills of health can be considered valid only when delivered within twenty-four hours last preceding departure. If the departure is delayed beyond this period, the bill must be *viséd* by the authority delivering it, stating whatever changes have taken place in the sanitary condition of the port, vessel, officers, crew, or passengers.

13. When the port of departure, or its vicinity, is *infected*, that fact shall be noted in the bill of health; and, when the sanitary or other local authority of the port declares the existence of such infection, the bill of health shall give the date of the declaration.

14. A port shall not be considered infected by reason of the existence of contagious or infectious disease confined within the limits of the quarantine station of such port.

15. Physicians attached to sea-going vessels shall be specially charged with the duty of watching their sanitary condition and the health of their officers, crew, and passengers. On arrival of the vessel, they shall report to the health officer of the port the sanitary history of the voyage.

16. In case of the occurrence at sea of Asiatic cholera, yellow fever, plague, small-pox, relapsing fever, or typhus fever, the wearing apparel and bedding used by those affected with such disease shall be boiled for not less than two hours, or burned or sunk.

17. Captains, owners, or agents of vessels shall, at the port of departure, be required to answer, under oath, to the consuls or sanitary officers, all questions as to the sanitary condition of the vessel, etc.

18. Whenever any vessel shall leave an *infected* foreign port, or, having on board goods or passengers coming from any place or district infected with

Asiatic cholera, yellow fever, or plague, shall leave any foreign port bound for any port in the United States, the consul, consular officer, or other representative of the United States at or near such port, may, at his discretion, immediately give information thereof by telegraph to the National Board of Health at Washington, D.C., reporting the name, date of departure, and port of destination of such vessel. The cost of such telegrams will be paid by the National Board of Health.

19. All merchant ships or vessels from any foreign port where any contagious or infectious disease exists, and bound for any port of the United States, must present to the health officer at the quarantine station of such port evidence that these rules and regulations have been complied with, in order that such vessel may enter such port, discharge its cargo, and land its passengers.

ADDITIONAL RULES AND REGULATIONS NECESSARY TO PREVENT THE INTRODUCTION OF SMALL-POX INTO THE UNITED STATES FROM FOREIGN COUNTRIES.

1. That all persons coming from or through any foreign port or place in which small-pox exists, who, after the fourteenth day of November, 1881, shall arrive at any port of entry within the United States, shall be subjected to examination as regards their protection from that disease by the proper health authorities of the State within which such port lies, or, in case such authorities shall fail or refuse to enforce this rule, then by some officer or other proper person to be designated by the President of the United States.

2. That in case any person so arriving shall refuse to submit to such examination, or, upon undergoing the same, shall be found not sufficiently protected from small-pox, such person, and, in case he or she be not *sui juris*, then also the person having him or her under charge, shall be detained in quarantine until he or she shall have been properly vaccinated, or shall have passed the period of incubation from date of last exposure.

