

D. L. Elder

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NEW YORK, July 26, 1856.

SIR,—In accordance with the resolution adopted at a meeting of the Representatives of the New York Fire Department, held July 21st, I transmit you a copy of the proposed Ordinance for the "Re-organization of the New York Fire Department," together with the majority and minority reports of the Committee.

You are requested to lay the Ordinance before your company, and report to me on or before the Special Meeting, to be held August 7th, 1856, the number of votes cast by your company, for or against the proposed Ordinance.

Yours respectfully,

JOHN GILLELAN.

REPORT OF THE COMMITTEE
ON THE
RE-ORGANIZATION OF THE
New York Fire Department.

To the REPRESENTATIVES of the
NEW YORK FIRE DEPARTMENT: }

GENTLEMEN,—Your Committee, appointed to confer with the Common Council, relative to a “Re-organization of the Fire Department,” and who were directed to present the result of their labors back to the Representatives’ Board, beg leave herewith respectfully to

REPORT:

That, in connection with the Fire Department Committee of the Board of Councilmen, the Fire Commissioners and a Committee of the Board of Engineers and Firemen, they have for months past been engaged in the performance of the duties assigned them. The Report herewith submitted, in the form of a Document of the Board of Councilmen, shows the result of the labors of your Committee, and is submitted for your approval and adoption.

By the provisions of the Ordinance annexed, it will be seen that many and important changes are introduced—changes that affect, more particularly, the active members of the Department. It is unnecessary that your Committee should go over all of these matters in detail; suffice it to say, that they believe the Ordinance as it stands, to be, if adopted by the

Common Council, and enforced by the Fire Commissioners, for the best interests of the Department.

While your Committee cannot expect that their report will prove acceptable to all of the Firemen in the city, they are led to believe that it meets with the approbation of a large majority of the active members of the Department, besides being approved by many of those whose experience and position fit them to form an intelligent judgment in the premises. With these views, your Committee respectfully submit for adoption the following resolution :

Resolved, That the accompanying Ordinance, entitled, "An Ordinance Re-organizing the Fire Department of the City of New York," be, and the same is hereby approved by this Board, and recommended to the Common Council for adoption.

Resolved, That the officers of this Board be, and they are hereby directed to present a certified copy of the above resolution to both branches of the Common Council immediately.

JAMES CAMERON, }
JOHN A. SMITH, } *Committee.*
JOSEPH BLACK, }

New York, July 21, 1856.

AN ORDINANCE

RE-ORGANIZING THE FIRE DEPARTMENT

OF THE

CITY OF NEW YORK.

SECTION 1. The Fire Department of the City of New York shall consist of one Chief Engineer, eighteen Assistant Engineers, and as many fire-engine men, hook and ladder men, and hose men, as are now, or may hereafter be appointed by the Common Council, in accordance with the provisions of "An Act for the Better Regulation of the Firemen in the City of New York," passed March 29, 1855, together with such hydrant men as have not served the full term prescribed by law as firemen, all of whom shall respectively be distinguished by the several appellations aforesaid.

SEC. 2. The Chief and Assistant Engineers shall severally be elected by the firemen, by ballot, at such time and in such manner as is hereinafter provided; and the person or persons receiving a plurality of votes for the respective offices shall thereupon be entitled to a nomination to the Common Council, for appointment to such office.

SEC. 3. The first election for Chief Engineer shall take place on the first Tuesday after the first Monday in February, 1857, and thereafter every three years, or whenever called for by a majority of the members of the Fire Department, as expressed to that effect, in writing, to the Common Council; and the first election for Assistant Engineers shall take place on the first Tuesday after the first Monday in June, 1857. The persons so elected Assistant Engineers, shall severally reside as follows: one in that portion of the city lying north of Seventy-First street, and east of the Sixth Avenue; one in that portion of the city lying north of Seventy-First street, and west of the Sixth Avenue; and two in

to at least two of the members of the Company present, be allowed to manage or have control of the tongue or tiller of any apparatus, in going to or returning from a fire. It shall also be the duty of the officers and members of each and every Company, when returning with their apparatus from a fire, or alarm of fire, to prevent any racing of their Company with any other Company, and to abstain from any conduct that may be likely to cause a breach of the peace, or reflect discredit on the Fire Department. It shall further be their duty to use all endeavors to cultivate good feeling among the members of the Fire Department.

SEC. 25. It shall be the duty of the officers and members of each and every Company to see that the apparatus and implements used by them, and the house in which the said apparatus and implements are deposited, are preserved from damage by neglect, to report any repairs that may be necessary; and it shall also be their duty to use such precautions as may be necessary to prevent damage to the house, apparatus or implements, by the entrance of malicious or evil-disposed persons.

SEC. 26. Within three days after an election for Foreman, Assistant Foreman, Secretary, or Representatives of any Company, it shall be the duty of the Secretary of the said Company to present a return of the name and residence of each and all of the persons so elected, to the Chief Engineer; and within ten days after the Annual Return, as provided in Sec. 21, has been transmitted to the Chief Engineer, it shall also be the duty of the secretary of each and every Company to transmit to the Commissioner of Jurors a correct statement of the names, residence, and ward number of each and every fireman included in the said return. He shall also keep a true record of each member's duty in a book provided by the clerk of Common Council, as set forth in Sec. 37, and shall transmit the said book to the Chief Engineer at the time and in the manner as prescribed in Sec. 21 of this ordinance.

SEC. 27. Each and every officer or member in command of a Company, shall be held responsible for his actions, while exercising command over any fire apparatus, and shall be subject to trial and punishment by complaint before the Fire Commissioners, for any wilful neglect or violation of any of the duties incumbent upon him, under any or all of the provisions of this ordinance.

SEC. 28. It shall be the duty of the officers and members of each and every company to see that no intoxicating liquors are

or refusing so to wear his cap or badge as heretofore set forth, or loaning his badge to any person whatsoever, shall upon conviction thereof, be subject to the penalties prescribed in Section 59 of this ordinance.

SEC. 53. Each and every engine, hose, and hook and ladder, and hydrant man, shall, when on duty as such, wear the leathern cap as heretofore used, which cap shall be painted black, and shall bear a frontispiece painted and distinguished as hereinafter described. Each frontispiece shall bear the initials of the name of the person wearing the same, and the number of the company to which he is attached—hose men having, in addition thereto, the word "Hose" above the number. Hook and ladder men having a hook and ladder crossing the number; and hydrant men having the word "Hydrant" placed above a figure of a hydrant thereon delineated. All of the said frontispieces, with the exception of those worn by the foreman and assistant foreman of each company, shall have the characters above described, placed in light colors on a dark ground. The foreman and assistant foreman of each company shall wear a frontispiece similar to that of the members—the characters being placed in dark colors on a light ground, and the words "foreman," and "assistant," respectively placed above the number of the company. Each of the engineers shall wear the leathern cap as heretofore used, painted white, with a gilded frontispiece, having a fire-engine blazoned thereon, together with the words "chief," or "assistant," as the case may be, and the initials of their names.

SEC. 54. The fire-cap, as provided in Sec. 53, shall not be worn except when at fires, or on the occasion of a general parade of the Fire Department, or of the company to which any fireman may be attached, nor shall it be lawful for any fireman to loan his fire-cap, with the frontispiece attached thereto, to any other than a member or exempt member of the Fire Department; and no exempt member of the Fire Department shall be allowed to wear a frontispiece similar to that worn by any Company attached to the Fire Department without first obtaining the consent of the said company so to wear their frontispiece.

SEC. 55. It shall be the duty of the Secretary of each Company to return to the respective Captains of Police a statement of the names, residences, and districts for which such members who desire it shall be called, as shall reside within their respective

wards ; and the Captains of Police shall furnish the several policemen under their charge with the names and residences of firemen residing within the respective beats of such policemen. And it shall be the duty of the policemen to notify all such persons of the occurrence of any fire in the district or districts in which the said persons perform duty.

SEC. 56. It shall be the duty of the police, when a fire occurs, to form a line at least two hundred feet distant from the said fire, on either side thereof ; and they shall not, under any circumstances, permit any person to pass or remain within said lines, unless said person shall wear the uniform or badge of the Fire Department, the uniform of the Insurance Patrol, or be a member of the Common Council, a President, Secretary, or Surveyor of an Insurance Company, a member of the Police Department, or an owner of property within, or resident in, the prescribed lines.

SEC. 57. It shall be the duty of the police to promptly remove from within the prescribed lines, all persons not designated in the last preceding section ; and all persons refusing to retire at the request of a policeman, from within the said lines, shall be deemed guilty of a misdemeanor, and be forthwith arrested.

SEC. 58. The several patrolmen who shall have been upon their respective beats upon an alarm of fire during the night, shall, upon their return to their respective station-houses, after such alarm, report to the officer on duty at such station-house, a statement of the names of such members of the Fire Department as they shall have called, in accordance with section 55 of this ordinance.

SEC. 59. Any Engineer, officer of a company, or member of the fire department, who shall violate any or all of the sections of this ordinance, or who shall knowingly or wilfully consent to, or assist in, any violation of any or all of the sections of this ordinance, shall be liable to suspension or expulsion from the fire department. And any company so found guilty of a violation of any, or all of the sections of this ordinance, shall be liable to be disbanded.

SEC. 60. All ordinances, or parts of ordinances, and all resolutions, or parts of resolutions, the terms or provisions of which shall conflict with any or all of the provisions of this ordinance, are hereby repealed, and this ordinance shall be construed and understood as repealing all former ordinances and resolutions, relative to the duties of the firemen of the City of New-York.

SEC. 61. This ordinance shall take effect immediately.

TO THE BOARD OF REPRESENTATIVES OF THE NEW YORK FIRE DEPARTMENT:

THE undersigned, appointed by you to meet and confer with the Committee from the Board of Councilmen and a like Committee from the Board of Foremen with the Fire Commissioners, for the purpose of preparing an Ordinance for the Reorganization of the Fire Department, to be submitted to the Common Council for adoption respectfully

REPORT,

That a majority of the Convention, consisting of the several delegations aforesaid, have determined upon an ordinance for the purposes above named, which is now before the Board of Councilmen for adoption, a copy of which is now before this body. In the discharge of the duty entrusted to your committee, we have felt impressed with the importance to our department that the task should be faithfully and independently performed. We felt it to be our duty to oppose any attempt to create an ordinance, which should deprive the department (under the reasonable supervision of the Common Council) of the exercise of self-government. We believed that an organization like ours, voluntarily formed, for the purpose of uniting in a mutual effort, with great risk of life and health, and without fee or reward, to avert the destruction of property and loss of life by a great, powerful and fearful element, could safely be entrusted with their own special management and control. Nevertheless, we were willing to agree to incorporating in the proposed ordinance all provisions that might be necessary to effect a complete organization of the department, and to ensure good discipline among its members.

Yet your Committee believed then, as now, that the ordinances under which the department is now so successfully organized should be retained, rather than to try any new experiments of doubtful expediency. The ordinance now proposed has, in our judgment, many serious faults, objections of so serious a character

that, should the ordinance be adopted, your Committee are fearful that it would result in great injustice to the department.

We shall but refer to two or three of our objections to the proposed ordinance.

1st. Many of its provisions are too vague, indefinite and general.

No moral can be enforced, nor can the commission of any crime be restrained by legislation, except such as can be distinctly specified. The reason is obvious : if offences were created by merely denominating any wrong an offence, without more minutely specifying it, the tribunal before whom the accused might be arraigned for trial would be entirely despotic ; right and wrong would be determined according to its own standard of morals, of which there might be as great a diversity, as there are different persons constituting such tribunals. We will make a few references to the ordinance to show that it is liable to our first objection, viz. : that its provisions are too vague, indefinite and general.

Section 24 says, " It shall be their (the Firemen's) duty to prevent all boys, and noisy and improper persons from taking hold of the rope." Now, who are improper persons ? The law does not tell us. The answer to this question involves a great diversity of opinion. By this ordinance if a Fireman should omit to remove a man from the rope, whom *he* honestly regarded as a proper person to be there, and the Fire Commissioners should happen to differ with him, and regard such individual as an improper person, such Fireman could be by such Commissioners summarily suspended or expelled.

Again the ordinance (Section 24) requires officers and members to abstain from any conduct that may be *likely to cause* a breach of the peace, or reflect discredit upon the Fire Department. " It shall further be their duty to use all endeavors to cultivate good feeling among the members of the Fire Department."

The sentiment embraced in this quotation would be well enough to embrace in an oration on the duties of Firemen, or upon the opening of some building devoted to the use of Firemen, but it is too general and indefinite to be properly embraced in an ordinance, which, if violated in the sense in which the Fire Commissioners understand it, subjects a member to a penalty, no matter how pure his motives may have been. Men may and will honestly differ as to what *would be likely* to cause a breach of the

peace ; and, as to what acts would be likely to reflect discredit upon the Fire Department, the law does not tell us, but leaves the Commissioners to make an offence for the law.

The ordinance also provides (Section 28) : "That it shall be the duty of the officers and members of each and every company to see that no intoxicating liquors are brought in the vicinity of their respective apparatus when on duty at a fire." Now, what is the effect and meaning of the word "vicinity?" We can easily conceive a person whose abhorrence of the intoxicating cup is such, that bringing the article within the corporation limits would be an infraction of the ordinance, while another would not regard the liquor within the vicinity, until he could touch it with his lip. We think we have quoted sufficient to show that its provisions are justly subject to the criticisms we make.

2d. It creates a despotic tribunal to hear complaints against officers and members of the Department. By the act of the Legislation incorporating the Fire Department of the city of New York, the power was given to the Common Council to appoint the members, to make such rules and regulations, and impose fines and penalties. The Legislature of 1855, so far amended the original act as to create a Board of Fire Commissioners, whose duties are defined by sections 9 and 11 of the latter act, and were confined to the organization of new companies, and to hearing complaints against volunteer firemen, for riotous and disorderly conduct at fires or alarms of fire, for the violation of any of the State or city laws respecting the firemen of the city of New York, and any such found guilty, these commissioners were authorized to remove or suspend, subject to the approval of the Common Council. The Common Council by a vote of three-fourths of the members of each Board, are authorized to over-rule the decision of said Commissioners. The Commissioners are elected for a term of five years, and, unlike the other officers of the department, *there is no provision for their removal* in case the manner in which they discharge their duties are *unsatisfactory*. If the ordinance under consideration is adopted, the whole entire action of this department would be under the control of these Commissioners ; this power is given by section 27 of the proposed ordinance, which provides "that each and every" officer and member, &c., shall be subject to trial and punishment by complaint before the Fire Commissioners, for any wilful *neglect* or *violation* of any of the duties incumbent on him under any or all the provisions of this ordi-

nance." So general is the language of this ordinance regulating the duties of officers and members, to which we have referred, that, allowing the Fire Commissioners to try and punish officers and members, for whatever might *seem to the Commissioners* to be a violation or neglect of duty, as the proposed ordinance does, will be creating an arbitrary and despotic power, wholly inconsistent with those ideas of free government which alike as freemen and firemen we so fondly cherish.

The provisions of the ordinance are especially objectionable, in denying any appeal from the decision of the Commissioners. The Legislature having created the tribunal, without providing any means for the removal of its members, if found objectionable, the majority of our Convention now desire to make the decisions of the Commissioners final, thus denying (so far as the new ordinance is concerned,) to the accused that which in all other tribunals is allowed him—the right of review; so that, if the Commissioners should capriciously make such adjudication (except in cases provided for by the act of March 29, 1855), for such error of judgment such sufferers would be wholly without any source of redress. Whether it is fit and proper to vest such vast and extraordinary powers in the hands of any five men, however pure, is for the Fire Department to judge. By no act or vote of the undersigned will they hasten such an event.

Suppose the Legislature of this State should pass an act in these general terms: "All men shall do what is right, and none shall do wrong," and they should then create a tribunal of five Commissioners to hear and determine any complaints against any citizen, and then provide that such decisions should be final. Would not such legislation produce a state of society worse than anarchy?

The proposed ordinance proposes for our department just such a state of things as such legislation we have supposed would create in our State.

3d. There is another objection to this ordinance: The act of the Legislature gives the Common Council control over this department. This authority they *cannot delegate*, if they could, and had desired it, there would have been no necessity for legislative interference by the act of 1855. This being so, the Common Council cannot by ordinance give to the Commissioners any farther or greater powers than were granted to them by the act of 1855. Judicial power can never be delegated by an agent, with-

out the assent of the superior power ; if it could, a judge might authorize his clerk to make decisions for him, and the Common Council have just as much right to delegate the power of sitting in judgment on the Fire Department to this Body, or the Board of Finance, as they have by this ordinance to the five Commissioners. Both would be illegal.

For the reasons here given, among others, your Committee are of the opinion that the proposed ordinance ought not to be adopted ; but, for the purpose of ascertaining the sense of the Department upon the question, we would respectfully recommend that the Common Council be solicited by this body to submit the question to the Fire Department at large.

It is proper to add that nothing in this report contained relating to the Fire Commissioners is intended as casting any reflection whatever upon the present Board of Fire Commissioners.

All of which is respectfully submitted,

CHARLES L. CURTIS,
JULIAN BOTTS.

NEW YORK, July 21, 1856.