

Dear Sir:—In your favor of October 11th, you submit the following:

"Will you please advise the state board of health with reference to such measures as are necessary to enforce compliance with sections 1105 and 1106, Revised Statutes, which provide for the organization of local boards? Many of the localities in the State have ignored the provision referred to, and it is desired to effect a complete organization at the earliest possible time."

Under section 1105, to which you refer, it is made the duty of the board of trustees or city council of every incorporated town or city of the State, to establish by ordinance a board of health for such town or city, to consist of three or more persons, one of whom, when practicable, shall be a physician, a graduate of a regularly chartered medical college, who shall be executive officer of the board and be known as the health officer.

Under subdivision 65 of section 206, Revised Statutes, the general power is given to cities and towns, "to make regulations to secure the general health of the city, to prevent the introduction of contagious, infectious, or malignant diseases into the city, and to make quarantine laws and enforce the same within the corporate limits," and within twelve miles thereof. To create a board of health and prescribe the powers and duties of the same."

Section 1106, to which you refer, provides that each board of county commissioners shall divide the county, outside of the limits of incorporated cities and towns, into sanitary districts, and shall appoint a health officer for each district, who shall be, when practicable, a physician. Such district health officers shall, together with the board of county commissioners, constitute the county board of health.

Subdivision 39 of section 511, Revised Statutes, invests the board of county commissioners with the general power "to adopt such provisions for the preservation of health in the county, or any district therein, or portion thereof (except municipal corporations) as the board may deem necessary, and to provide for paying the expenses thereof. It shall be the duty of the board of county commissioners, by ordinance, to appoint district health officers, who shall hold their offices for the term of two years, and shall serve without compensation. The board of health shall have a general supervision of all the matters appertaining to the sanitary condition of the county, etc."

Under these provisions it is clearly the duty of the trustees or city council for incorporated towns or cities of the State to establish boards of health and sanitary districts, and it would seem, since the legislature, in its wisdom, has enacted these provisions, which are mandatory, that they should be observed by such public officers and their provisions executed and carried out. The expediency of the law ought not to be considered by them; the only question being a question of duty as public officers in executing the will of the legislature.

You ask to be advised as to what measures are necessary to enforce compliance with these provisions.

In cases where such public officers have ignored the law, and neglect and refuse to carry out its provisions, section 4153, Revised Statutes, provides "Every wilful omission to perform any duty enjoined by law upon any public officer, or person holding any public trust or employment, where no special provision shall have been made for the punishment of such delinquency, is punishable as a misdemeanor."

The above section is a provision found in our penal code, and is a general provision sufficiently broad to include

every officer in the State, whether he be a State, county, municipal or district officer. A wilful omission to carry out the provisions of sections 1105 and 1106, supra, in my opinion, would subject the delinquent officer to a prosecution and punishment for a misdemeanor.

Again, as specially relating to county officers, section 507 of the Revised Statutes provides: "Any county commissioner who refuses or neglects to perform any duty imposed upon him, without just cause therefor, or wilfully violates any law provided for his government as such officer, or who, as commissioner, wilfully, fraudulently, or corruptly attempts to perform any act unauthorized by law shall, in addition to the penalty provided in the penal code, forfeit to the county five hundred dollars for every such act to be recovered on official bond, and shall be further liable on his official bond to any person injured thereby for all damages sustained."

If the county commissioners of any county wilfully neglect or refuse to execute the provisions of sections 1105 I am of opinion that they would be liable to forfeit to the county five hundred dollars for every such act and this, in addition to the penalty provided in section 4153, supra.

Under subdivision 3 of section 633, Revised Statutes, relating to the duties of county attorney it is provided that he shall prosecute all actions for the recovery of fines, penalties and forfeitures accruing to his county.

Under this provision it would seem quite clear that it would be the duty of the county attorney, in cases where county commissioners refuse or neglect to perform the duty imposed by section 1106, above referred to, to institute proceedings for the forfeiture provided in said section 507 and, under subdivision 2 of said section 633 it would also be his duty to institute proceedings under the provisions of section 4153, supra, when he has information that any such offense has been committed.

I have the honor to be, very respectfully yours,

F. M. BISHOP,  
Attorney General.

#### DR. TALMAGE ON SUCCESS.

Success and Failure was the subject of an address delivered by Dr. Talmage before a crowded congregation in the Twentieth ward meeting house Sunday evening. For an hour the doctor held the great assemblage in profound attention and admiration. As the successful man needs no help or encouragement, the subject of failure was given most consideration.

After showing that the generally accepted idea of success is often a false one, and that many a man goes to his grave deserving far more honor and praise than many a "successful man," the doctor said, in speaking of moral failures:

"I pity the man who has never failed; he is not a whole man. He knows not the sweet fruits of success. By failures we learn; through them we become strong. We try to erase every mark of failure from our lives, and feel so ashamed of it; but it ought not to be so.

He that never makes a mistake is fit to be a master rather than a pupil. We make mistakes in order to know how to avoid them; and if we never make the same mistake twice, all will be right with us (not meaning moral mistakes). As some jewels have flaws in them to which the very existence of the jewel is due, so, I dare say, many of God's brightest jewels will be those containing flaws that helped to perfect the jewels.

"Better a thousand times to fall in the path of duty than to succeed away from that path. By failure we learn

how likely we are to fail again; and thus gather strength from it by which we may avoid mistakes. He thinks that much of what the world calls success will some day be called failure; and much of what is now called failure will be rightly called success."

Speaking of being afraid of dangers, he said that it is only the mad man who is not afraid when there is failure. "It is no credit to the insane man to rush fearlessly into danger. But the man who coolly calculates his condition and acts in spite of all danger because of duty, is the brave man. Though a man die of fright in the strict performance of his duty, he is not a coward. The man who is ashamed of fear is a man to be shamed. It is said that it is only the fool who says he is not afraid.

"As we do not know what failure is, so we do not know what success is. We do not know the jewel of success even when we see it. The rough diamond is often not recognized. What is it that we admire—is the man or his clothes; is it the diamond or the polish? But whether we be polished or not, let us be genuine. The one who tries to do his best is a great man. Every good man is a great man. It is only the perfect man who does his best; it is sufficient to try to do one's best.

"The degree of success or failure of a man may be determined by his motive. If a young man does good only because of fear, he is to be pitied when he goes out into the world; likewise he whose motive for doing good is only because of a promise of reward. Some day may we show that we are sons and daughters of God, not hirelings of Earth. May we do good not because of reward, not because of fear; but because our Father hath commanded it, because He sanctions it. Though He is to be admired who does right for duty's sake, yet duty, after all, is a hard task master; duty is sometimes a cold, cold motive. The highest motive is to do good because we love to do good. We then have no need of having duty pointed out to us; we wont need to have reward or punishment pointed out to us.

"It is often said that 'honesty is the best policy.' Better had such never been written. Honesty is not policy. It is degrading to make honesty the best policy. A man should be honest for no other reason than that he is honest. Better by far to tell the truth because we cannot do otherwise. It is not enough to do good unless the motive that prompts us is good."

The address was full of rich illustrations and comparisons. It was closed by a quotation from Goldsmith. And let us be

"As some tall cliff that lifts its awful form,  
Swells from the vale, and midway leaves the storm,  
Though round its breast the rolling clouds are spread,  
Eternal sunshine settles on its head."

#### FIRE IN THE CAPITOL.

Washington, Nov. 6.—An explosion and fire at 5:13 this afternoon wrecked the supreme courtroom and the rooms immediately adjoining it on the main floor of the capitol. The damages is enormous. The entire central eastern part of the great marble pile from the main floor to the subterranean basement practically is a mass of ruins. The force of the explosion was so heavy that the coping stones on the outer walls, just east of the point where the explosion occurred, were bulged out nearly two inches; windows in all that part of the building were blown out; and locked doors were forced from their hinges quite a hundred and fifty feet from the scene of it.