prohibited from *subjecting stray animals* owned by persons *not residents* of such towns to their corporation ordinances. It was held that an ordinance operating, not on the animals but on the non-resident *owner*, in the shape of a penalty, violated the spirit of the statute, and was void. So, in a later case in the same State, it was shown that the general policy of the State was to allow animals to run at large; and it was ruled that a municipal corporation with power to pass "all by-laws deemed necessary for the well-regulation, health, cleanliness, &c.," of the borough, and with power to "abate nuisances," had no authority to pass a by-law restraining cattle from running at large, such a by-law being in contravention of the general law of the State.[1]

§ 330 (264). **Same subject.** — The general statutes of the State abolished the system of inspecting hay, and, in the place of it, the seller was required to prepare the article for market in a particular manner, at the peril of being subjected to certain designated penalties. In other words he was at liberty to dispose of his hay without inspection if he chose to do so. Under these circumstances, it was decided that a city ordinance, prohibiting the sale of pressed hay *without inspection,* was void, because it *conflicted with the laws of the State* upon the same subject.[2]

&c. Co. *v.* Grand Rapids Edison, &c. Co., 33 Fed. Rep. 659; *Ex parte* Chin Yan, 60 Cal. 78; Baltimore *v.* Scharf, 54 Md. 499.

[1] Collins *v.* Hatch, 18 Ohio, 523 (1849). But in *Illinois* it has been decided that a town, authorized by its charter to declare what should be nuisances, and to provide for the abatement thereof by ordinance, may pass an ordinance declaring *swine running at large* within the corporation to be nuisances, and providing for the taking up of the same, &c., and this though under the laws of the State the owners of stock may lawfully allow it to run at large upon the common, the court regarding the power named in the charter as abridging or limiting any right of common which might otherwise exist. Roberts *v.* Ogle, 30 Ill. 459 (1863). By-laws which contravene the policy of the general statutes of the State, by undertaking to punish acts which those statutes authorize, are void. Canton *v.* Nist, 9 Ohio St. 439, holding void a by-law, which, disregarding the statutory exceptions of cases of necessity, charity, &c., prohibited the opening of shops for business on Sunday. Followed, Thompson *v.* Mount Vernon, 11 Ohio St. 688, adjudging an ordinance to be invalid because inconsistent with the liquor law of the State. And see Adams *v.* Mayor, &c., 29 Ga. 56; Sill *v.* Corning, 1 E. P. Smith (15 N. Y.), 297; Cincinnati *v.* Gwynne, 10 Ohio, 192; Wood *v.* Brooklyn, 14 Barb. (N. Y.) 425; Markle *v.* Akron, 14 Ohio, 586; Thomas *v.* Richmond, 12 Wall. 349 (1870). But a corporation may, in some cases, consistently with general law, *further regulate* by ordinance subjects already regulated by statute. Huddleson *v.* Ruffin, 6 Ohio St. 604; Rogers *v.* Jones, 1 Wend. (N. Y.) 237; State *v.* Welch, 36 Conn. 215 (1869).

[2] Mayor, &c. of New York *v.* Nichols, 4 Hill (N. Y.), 209 (1843). Compare Mayor *v.* Hyatt, 3 E. D. Smith (N. Y.), 156; Rogers *v.* Jones, 1 Wend. (N. Y.) 237. Construction of power to appoint weighmasters. Hoffman *v.* Jersey City, 34 N. J. L. 172 (1870).



*Of the Signing, Publication, and Recording of Ordinances.*

§ 331 (265). **Signing, Publication, and Recording.** — When ordinances are *required to be published* before they shall go into effect, this requirement is essential, and the publication must be in the designated mode. Until such publication be made, or until they have gone into operation, no penalty can be enforced under them.[1] Whether *the mayor's signature* is essential to the validity of an ordinance depends upon the charter; but unless made essential, such provisions, where the ordinance is duly enacted, have sometimes been regarded as directory.[2]

[1] Barnett *v.* Newark, 28 Ill. 62 (1862); Conboy *v.* Iowa City, 2 Iowa, 90 (1855); Higley *v.* Bunce, 10 Conn. 567 (1835); Meyer *v.* Fromm, 108 Ind. 208; Napa *v.* Easterby, 61 Cal. 509; Waln *v.* Philadelphia, 99 Pa. St. 330; Schwartz *v.* Oshkosh, 55 Wis. 490. Specified *mode of publishing* the proceedings of the council is essential. State *v.* Hoboken, 9 Vroom (38 N. J. L.), 110; *Ib.* 113; Hoboken *v.* Gear, 3 Dutch. (N. J.) 265. Failure to publish ordinance held not to affect validity of bonds issued under a subsequent act authorizing the corporation to incur a debt. Amey *v.* Allegheny City, 24 How. 364; Clark *v.* Janesville, 10 Wis. 136 (1859); State *v.* Newark, 1 Vroom (30 N. J. L.), 303; People *v.* San Francisco, 27 Cal. 655. Where publication for *five successive days* is required, a publication for five successive week-days is sufficient, though a Sunday intervenes when no paper is issued. *Ex parte* Fiske, 72 Cal. 125. Publication in a newspaper published *only on Sunday* held valid under the *Ohio* statute. Hastings *v.* Columbus, 42 Ohio St. 585. Under a charter forbidding the increase of salaries during terms of office, and providing that ordinances should *not take effect* until after publication for twenty days, an ordinance respecting salaries, adopted before a term began, but the last publication of which was after that time, was held to fix the salaries for that term. Stuhr *v.* Hoboken, 47 N. J. L. (18 Vroom) 147. Where the charter provided that a *failure to publish* should not make ordinances void unless the delay caused them to operate retrospectively, it was held that an ordinance became a law without publication. Schweitzer *v.* Liberty, 82 Mo. 309. When *no provision* for the publication of ordinances is contained in a special charter, the promulgation should be reasonably sufficient to notify all parties interested, and the presumption is in favor of the reasonableness of the time adopted by the corporation, which must prevail unless countervailing facts are proved. Pitts *v.* Opelika, 79 Ala. 527, which further decides that a provision for publication contained in a general law applies only to municipalities organized under that law. Publication held *not necessary when not required* by the charter. *In re* Guerrero, 69 Cal. 88. In *Massachusetts a provision by ordinance* for the publication of ordinances is held *to be directory*, and not a condition precedent to their validity. Commonwealth *v.* Davis, 140 Mass. 485.

[2] Blanchard *v.* Bissell, 11 Ohio St. 96, 101, 103 (1860); Striker *v.* Kelly, 7 Hill (N. Y.), 9; Elmendorf *v.* Mayor of New York, 25 Wend. (N. Y.) 693. See, however, Conboy *v.* Iowa City, *supra;* State *v.* Newark, 1 Dutch. (N. J.) 399; State *v.* Hudson, 5 Dutch. (N. J.) 475; Kepner *v.* Commonwealth, 40 Pa. St. 124; State *v.* Jersey City, 1 Vroom (30 N. J. L.), 93; Creighton *v.* Manson, 27 Cal. 613; Taylor *v.* Palmer, 31 Cal. 241; Dey *v.* Jersey City, 19 N. J. Eq. 412; State *v.* Jersey City, 1 Vroom (30 N. J. L.), 93; *Ib.* 148; State *v.* Newark, 3 Dutch. (N. J.) 185 (1876); Gas Co. *v.* San Francisco, 6 Cal. 190; State *v.* Henderson, 38 Ohio St. 644; Waln *v.* Philadelphia, 99 Pa. St. 330; Opelousas *v.* Andrus, 37 La. An. 699; New York & N. E. R. R. Co. *v.* Waterbury, 55 Conn. 19 (holding also that

§ 332 (266). **Alternate Modes of Publication.** — Where *alternate modes of publication* of a by-law are allowed by statute, and the statute requires the *corporation* to direct which mode shall be adopted, a publication made by order of the clerk, without direction from or selection of the mode having been made by the corporation, is not valid.[1]

§ 333 (267). **Time of Publication.** — A municipal charter required every ordinance *to be published* for the space of *twenty days*

the fact that there was a practice of treating votes of the common council as approved by the mayor unless disapproved in writing, was immaterial). See *ante*, chapter on Corporate Meetings, sec. 293. Signing *minutes* not equivalent to signing resolution, when latter is essential. Graham *v.* Carondelet, 33 Mo. 262 (1862); but see Woodruff *v.* Stewart, 63 Ala. 206, where signing minutes was held sufficient. When to be signed. Miles *v.* Bough, 3 Gale & D. 119; Inglis *v.* Railway Co., 16 Eng. Law & Eq. 55. Where another officer is *ex-officio* clerk of the council his signature to an ordinance as "clerk of the council" is a proper authentication of it. *In re* Guerrero, 69 Cal. 88. A legislative provision requiring the *presiding officer* of the council to *sign* all ordinances is directory in its nature. If regularly passed, an ordinance is valid, though not thus authenticated. It is, of course, competent for the legislature to make the signature an essential condition of validity. Blanchard *v.* Bissell, 11 Ohio St. 96, 101, 103 (1860); Fisher *v.* Graham, 1 Cin. (Ohio) 113 (1870); *ante*, sec. 293. See State *v.* Newark, 1 Dutch. (N. J.) 399. Signature of mayor not essential under general incorporation laws of *Indiana*. Martindale *v.* Palmer, 52 Ind. 411 (1876). No municipal ordinance is binding unless signed by the mayor and promulgated in the English language. Breaux's Bridge, *In re*, 30 La. An. 1105; *ante*, sec. 271, note. Where, *by mistake*, the date of approval by the mayor was entered as of a day prior to the passage of an ordinance, it was held, in a suit to collect a tax under the ordinance, that as all other requisites had been complied with and no one's rights had been prejudiced, the validity of the ordinance was not affected. Allentown *v.* Grim, 109 Pa. St. 113. Where the *charter required the mayor to sign ordinances* or return them within five days with his reasons for not doing so, an ordinance passed by the council, but which was not signed nor returned by the mayor, was held invalid. *In re* Standiford, 5 Mackey (Dist. of Col.), 549, and see Pennsylvania Globe Gas Light Co. *v.* Scranton, 97 Pa. St. 538. *Injunction does not lie* to prevent a mayor from signing an ordinance, even when the intended ordinance is a repeal of one under which a valid contract has been entered into. New Orleans Elevated Ry. Co. *v.* New Orleans, 39 La. An. 127. As to what may be considered *sufficient proof* of an ordinance having been signed by the mayor, see Knight *v.* Kansas City, St. J. & C. B. R. R. Co., 70 Mo. 231. Bonds of a city signed by an ex-mayor held invalid. Coler *v.* Cleburne, 131 U. S. 162 (1889).

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in at least one newspaper before it should go into effect; and it was held that an ordinance would go into force in twenty days after its publication in the first number of the paper; that twenty days need not intervene between the first and last insertions; that it is clearly sufficient if it be published in each number of the paper issued within the twenty days, and probably sufficient if there is but one insertion, twenty days after which the ordinance will go into effect.[1] Where an ordinance has been once duly published, and it is afterwards included in a revision or digest of ordinances, no additional publication is necessary.[2]

§ 334 (268). **Proof of Publication.** — A charter provided that no ordinance should be *in force until published in some newspaper* of the place, and also declared that ordinances should be sufficiently proved in any court (among other modes) by a printed copy taken from the newspaper or printed pamphlet in which the same had been published, provided the same purports to have been done by authority of the corporation. Under this provision, the production of a newspaper published in the town, containing what appears as an ordinance, with a caption, "Published by Authority," duly signed, *is evidence* of the existence and adoption of the ordinance.[3] So where the charter provides that *ordinances published by authority of the corporation* shall be received in evidence without further proof, *a book of ordinances*, purporting to be thus published, is competent

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[2] St. Louis *v.* Foster, 52 Mo. 513 (1873). "It would be of the most mischievous consequence to hold that the revision of a law had the effect of making the revised law entirely original, to be considered as though none of its provisions had effect but from the date of the revised law. When a former provision is included in a revised law, it is only thereby intended to continue its existence, not to make it operate as an original act, to take effect from the date of the revised law. The revision has not the effect to break the continuity of those provisions which were in force before it was made." St. Louis *v.* Alexander, 23 Mo. 509. Exception to rule, see Emporia *v.* Norton, 16 Kan. 236 (1876).

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evidence, without further authentication; but it is not, of course, conclusive.[1]

§ 335 (269). **Recording Ordinances.** — A provision in a statute changing an incorporated town into a city, that the existing town ordinances shall remain in force provided they *shall be recorded* within four months thereafter, is merely directory, and such ordinances are valid, though not recorded within the designated period.[2] Nor is it a valid objection to a municipal ordinance that it is recorded in print (being printed and pasted in the proper book), and not in manuscript.[3]

*Of the Power to impose Fines, Penalties, and Forfeitures.*

§ 336 (270). **Common-Law Principles adopted.** — That by-laws or ordinances may not be inoperative or useless, it is necessary that *some penalty should be annexed to the breach of them;* and it is settled in England, in accordance with the principles of Magna Charta, that without the express sanction of parliament, no by-law can be enforced by disfranchisement of the offender, or by his imprisonment, or by forfeiture of his goods or property. Under incidental power to pass by-laws, a corporation may, in England, annex pecuniary penalties of a certain, fixed and reasonable character, but without express authority given by a statute, the only penalty it can prescribe is a pecuniary one, usually called a fine. Therefore in the absence of a statute or special custom justifying it, a by-law cannot give a power of distress and sale of the goods of the offender, since such a power is contrary to the common law. And where a corporation is empowered to enforce its by-laws in a special manner, as by fine, it is limited to the manner prescribed. These safe, salutary, and enlightened principles of law have been recognized by the American courts as applicable to the ordinances of our municipal corporations, as the cases to which reference is made fully show.[4]

published, held *prima facie* proof of the fact of publication. Downing *v.* Miltonvale, 36 Kan. 740.

[1] St. Louis *v.* Foster, 52 Mo. 513 (1873); Lindsay *v.* Chicago, 115 Ill. 120; *ante*, sec. 310, note.

[2] Trustees of Academy *v.* Erie, 31 Pa. St. 515 (1858); Amey *v.* Allegheny City, 24 How. 364; Tipton *v.* Norman, 72 Mo. 380. See chapter on Corporate Records and Documents, *ante*.

[3] Ewbanks *v.* Ashley, 36 Ill. 177 (1864). *Parol evidence of resolutions* is competent where the charter does not require them to be recorded, and no record thereof has been made. Darlington *v.* Commonwealth, 41 Pa. St. 68. See *ante*, sec. 310.

[4] In *Louisiana*, in a case where an ordinance required property owners to make their sidewalks conform to a uniform grade *under pain of a fine or imprisonment*, in default of payment of the fine, it was held by *Bermudez*, C. J., citing this section, that "a municipal corporation has no right to enforce obedience to the ordi-



§ 337 (271). **Statutory regulation of Fines and Penalties under Ordinances.** — By the *Municipal Corporations Act*, the subject of by-laws and their penalties is regulated. It is declared "that it shall be lawful for the council of any borough to make such by-laws as shall to them seem meet for the good rule and government of the borough, and for the prevention and suppression of all such nuisances as are not already punishable in a summary manner by virtue of an act in force throughout such borough, *and to appoint, by such by-laws, such fines* as they shall deem necessary for the prevention and suppression of such offences; provided that no *fine*, to be so appointed, *shall exceed the sum of five pounds*, and that no such by-law shall be made, unless at least two-thirds of the whole number of the council shall be present."[1] Respecting the fines mentioned in this section, Mr. Rawlinson suggests the inquiry whether it be necessary or not that the *exact amount* of each fine should be mentioned in the by-law, the limit, to wit, 5*l*., being fixed by the act. It is contended, he observes, by some persons, that the amount may be left open, and that a by-law, enacting that the offence shall be punishable by a fine not less than 10*s*. and not exceeding 5*l*., would be valid. This would be convenient, but some have doubted whether the corporation could enforce it by the usual common-law remedies, viz., by an act of debt or assumpsit. It is believed, he adds, that by-laws have invariably fixed the exact sum; but, nevertheless, it would seem that a fine of 5*l*., with power to the mayor or other officer to reduce it to any sum not exceeding a specified amount, would be good.[2] In this country, the practice, if not general, is at least not uncommon, to prescribe limits to fines, and allow them to be imposed within those limits, at the discretion of the magistrate or court entrusted with jurisdiction to hear complaints for breaches of municipal ordinances.[3]

nances which it has the power to pass, by fine or imprisonment, or other penalty, unless that right has been *unquestionably* conferred by the lawgiver; for this is inflicting a punishment for the commission or omission of an act declared an offence, a prerogative which, as a rule, appertains to the sovereignty only." State *v.* Bright, 38 La. An. 1; see also Slessman *v.* Crozier, 80 Ind. 487.

[1] 5 & 6 Wm. IV. ch. lxxvi. sec. 90; *ante*, sec. 35, and note; *post*, sec. 408.

[2] Rawlinson on Corp. (5th ed.) 165, 166, note; *post*, sec. 341; Piper *v.* Chappell, 14 M. & W. 624; Peters *v.* London, 2 Upper Can. Q. B. 543; Fennell, *In re*, 24 Upper Can. Q. B. 238, 243; Snell, *In re*, 30 Upper Can. Q. B. 81.

[3] In England it is held that where the statute gives a discretion, either as to the amount of the penalty or its application, the justice must, on the face of the conviction, show in what manner the discretion has been exercised. The King *v.* Dimpsey, 2 Term R. 96; The King *v.* Symonds, 1 East, 189; Boothroyd, *In re*, 15 M. & W. 1; The King *v.* Seale, 8 East, 568, 573; The King *v.* Smith, 5 M. & S. 133; The Queen *v.* Johnson, 8 Q. B. 102; Wray *v.* Toke, 12 Q. B. 492; see also The King *v.* Wyatt, 2 Ld. Raym. 1478; The King *v.* Priest, 6 Term R. 538.

§ 338 (272). **Implied Power to annex Pecuniary Penalties.** — Since an ordinance or by-law without a penalty would be nugatory,[1] municipal corporations have an implied power to provide for their enforcement by reasonable and proper fines against those who break them.[2] So the right to make by-laws gives to the corporation, without any express grant of power, the incidental right to enforce them by reasonable pecuniary penalties. What is reasonable depends upon the nature of the offence and the circumstances.[3]

§ 339 (273). **Charter Mode governs.** — Where the charter or organic act prescribes the *manner* in which by-laws are to be enforced, or the sanctions or *punishments* to be annexed to their vio-

It was held in *New Jersey*, where the charter authorized the council to enforce their ordinances by a penalty not exceeding fifty dollars, that the council must prescribe a precise penalty for each offence, and therefore an ordinance declaring a penalty for its violation not exceeding fifty dollars was void. State *v.* Zeigler, 3 Vroom (32 N. J. L.), 262; followed in Melick *v.* Washington, 47 N. J. L. (18 Vroom) 254. In *North Carolina* the law is that fines imposed by ordinances *must be fixed in amount* and cannot be left to the discretion of the court. Ordinances prescribing a fine of "*not more* than" a sum specified are therefore void for uncertainty and vagueness. State *v.* Worth, 95 N. C. 615; State *v.* Crenshaw, 94 N. C. 877; State *v.* Cainan, 94 N. C. 883. The provision for a fine not exceeding $500 for such trivial offences as most of those covered by the ordinance before the court (one prohibiting processions without the consent of the mayor, *ante*, sec. 319, note), the council exercising no discretion, but turning this great power over to the courts, without any classification, held void. How far a sliding scale of penalties is allowable not decided, but the court said they must be reasonable whether sliding or fixed. *Per Campbell*, C. J., *In re* Frazee, 63 Mich. 396 (1886); s. c. 30 N. W. Rep. 72; 35 Alb. L. J. 6, citing Grand Rapids *v.* Hughes, 15 Mich. 54; see *post*, secs. 340, 341, 410; Harr. Munic. Man. 360.

[1] State *v.* Cleaveland, 3 R. I. 117. But no penalty can be enforced for an illegal exaction. Mayor *v.* Third Avenue Railroad Co., 33 N. Y. 42; Mayor *v.* Second Avenue Railroad Co., 32 N. Y. 261. "*Municipal fine*," as used in the Constitution of *California*, means a fine imposed by local laws of particular places, such as incorporated towns and cities, and not a fine imposed by the general laws of the State. People *v.* Johnson, 30 Cal. 98 (1866).

[2] Fisher *v.* Harrisburg, 2 Grant (Pa.) Cas. 291 (1854); Barter *v.* Commonwealth, 3 Pa. (Pen. & W.) 253; Trigally *v.* Memphis, 6 Coldw. (Tenn.) 382 (1869). The amount must be reasonable. Zylstra *v.* Charleston, 1 Bay (S. C.), 382. The penalty, says Mr. Willcock, must be imposed on the person who violates the by-law. Thus, if goods be sold by an unauthorized person within the city, the penalty must be imposed on the seller, and not on the buyer; for how can he distinguish between those authorized to sell and those who are not? Willc. on Corp. 154, pl. 369, 370; Cuddon *v.* Eastwick, 1 Salk. 143, 192; s. c. 6 Mod. 124; and see, also, Fazakerly *v.* Wiltshire, 1 Stra. 469. The rule stated above, as to the person on whom penalties must be imposed, may be extended or enlarged by express provisions of the organic act of the corporation.

[3] Mayor, &c. of Mobile *v.* Yuille, 3 Ala. 137 (1841). A penalty, although small, fixed on every stroke of the hammer which an unauthorized person uses in his trade of a goldsmith, is unreasonable. Willc. 154, pl. 368. Same principle, Mayor, &c. of New York *v.* Ordrenan, 12 Johns. (N. Y.) 122 (1815). See, *ante*, chap. x., Municipal Courts.



lation, this constructively operates to negative the right of the corporation to proceed in any other manner or to inflict any other punishment. Thus, in the leading case[1] on this subject, the charter prescribed in what manner by-laws should be enforced, namely, by *fine* and *amerciament*, or either, and it was decided that the corporation was precluded from declaring a *forfeiture* of property, or from inflicting any other punishment; and the doctrine of this case has been everywhere followed in the courts of this country.

§ 340 (274). **Same subject.** — A charter of a city specifically enumerated various powers, which the council was expressly authorized to enforce by a penalty not exceeding one hundred dollars for their violation; and the same charter empowered the council to prevent and remove encroachments upon the streets, but was silent as to the imposition of penalties for a violation of its provisions. The council passed an ordinance *imposing a continuing penalty of ten dollars a day for every day's failure* to remove an encroachment, after notice; and it was held, and properly so, that it possessed no

[1] Kirk *v.* Nowill, 1 Term R. 118, 124 (1786), *per Mansfield* and *Buller*: followed in Hart *v.* Mayor, &c. 9 Wend. (N. Y.) 571, 588, 606 (1832); Cotter *v.* Doty, 5 Ohio, 393 (1832); Heise *v.* Town Council, 6 Rich. (S. C.) Law, 404 (1853); Miles *v.* Chamberlain, 17 Wis. 446 (1863). In Hart *v.* Mayor, *supra*, it was accordingly decided that a corporation having authority "to inflict penalties for the violation of any by-law, not exceeding $25 for any one offence," could not pass a by-law subjecting property to *seizure* and *sale*, or *forfeiting* it, even though it was used contrary to the by-law, which was in other respects valid, the remedy for enforcing their by-laws having been specified. Hart *v.* Mayor, 9 Wend. (N. Y.) 571; *ante*, sec. 248; *post*, sec. 818.

Where *specific modes* of procedure and penalties are prescribed against persons failing to take out license for keeping drinking-houses, as fines, suits, and prosecutions, a municipal corporation, in the absence of express grant, has no right to close the doors of a drinking-house *summarily*, because the keeper has failed to take out a license. Bolte *v.* New Orleans, 10 La. An. 321 (1855). That a municipal corporation *cannot annex other or greater penalties* than those authorized in its organic act, that power to punish by "fine" is exclusive, and that it is not competent to order a forfeiture in addition, see Schroder *v.* City Council, 2 Const. Rep. (S. C.) 726; s. c. 3 Brev. 533 (1815); McMullen *v.* City Council, 1 Bay (S. C.), 46; Zylstra *v.* Charleston, *Ib.* 382; New Orleans *v.* Costello, 14 La. An. 37; Columbia *v.* Hunt, 5 Rich. (S. C.) 550, 558; Kennedy *v.* Sowden, 1 McMullan (S. C.), 328; compare Crosby *v.* Warren, 1 Rich. (S. C.) Law, 385. An ordinance treated as wholly void because it fixed the minimum fine for an offence at five dollars when the law required it to be three dollars. Petersburg *v.* Metzker, 21 Ill. 205 (1859). A party cannot enjoin the collection of a fine and costs imposed for the violation of a city ordinance, on the ground of there being no offence charged or cause of action stated before the mayor. The remedy in *Indiana* in such case is by appeal. Schwab *v.* Madison, 49 Ind. 329 (1874). The city of *New Orleans* has power to inflict fines and imprisonment under its police power only, and cannot apply them to violators of ordinances for the raising of a revenue, — as for selling vegetables without paying for the privilege. State *v.* Patamia, 34 La. An. 750.