

MAINE STATE LEGISLATURE

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REPORT

OF THE

COMMISSIONERS

APPOINTED TO

REVISE THE PUBLIC LAWS

OF THE

STATE OF MAINE.

TITLE II.

AUGUSTA:
STEVENS & BLAINE, PRINTERS TO THE STATE.

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TITLE SECOND.

PROVISIONS RESPECTING EDUCATION, RELIGIOUS INSTRUCTION, THE PUBLIC HEALTH, CONVENIENCE, SUPPORT OF THE POOR, AND POLICE.

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ARTICLE I.—*General Duties of Towns.*

SECTION 1. The school districts, in the several towns in this state, shall remain as now established, until altered or discontinued according to law. 1850, c. 193, § 1.

SECT. 2. The inhabitants of every town, at their annual meeting, may determine the number and limits of the school districts within such town; and if necessary may divide or discontinue any such district, or they may annex it to any other district, in such town, with such reservations and conditions, as may be proper to preserve the individual rights and obligations of the inhabitants thereof: *provided, however*, that no such action shall be had, until the selectmen and superintending school committee of such town, who are hereby constituted a committee for that purpose, shall have submitted to the town a written statement of facts, with their decision thereon, that such division, discontinuance or annexation, is necessary and proper. 1850, c. 193, § 2. 1854, c. 104, § 1.

SECT. 3. Any town at its annual meeting for the choice of town officers, may vote to choose, and in such case shall choose an agent for each school district in such town. 1850, c. 193, § 3.

SECT. 4. In any town containing but one district, all business relating to schools and school houses may be transacted at any regular town meeting, in the same way and manner in which other town business is transacted. 1850, c. 193, § 4.

SECT. 5. Every town shall, annually, raise and expend for the maintenance of schools therein, to be taught by masters, or mistresses, duly qualified, a sum of money, exclusive of the income of any corporate school fund, or of any grant from the revenue or funds from the state, or of any voluntary donation, devise or bequest, or of any forfeitures accruing to the use of schools, not less than sixty cents for each inhabitant; the number to be computed according to the last census of the state, under which the representation thereof, in the legislature, shall have been apportioned. 1850, c. 193, § 5. 1854, c. 104, § 2.

SECT. 6. The assessors of every town shall assign, to each school district within the same, a proportion of the money raised in each year, for the support of schools, or derived from any corporate school fund, bank tax, grant from the state, interest of the permanent school fund, or any other fund, at the disposal of such town, for the general benefit of schools therein; such apportionment to be made according to the number of children between the ages of four and twenty-one years, residing in such districts respectively, on the first day of May annually, exclusive of such as may have come from other places, where they belong, to attend any college or academy, or to labor in any factory in any such district.

And the assessors and superintending school committees shall have the power, and it shall be their duty annually to apportion ten cents of the sixty cents required to be raised by section five of this chapter, among the districts in their several towns, cities and plantations, in such manner as in their judgment shall give to the smaller districts a more equal opportunity of enjoying the benefits of common school education with the larger districts.

1850, c. 193, § 6. 1855, c. 147.

SECT. 7. If any town shall fail to raise and expend, annually for the support of schools, the amount of money required by law, such town shall forfeit a sum, not less than twice, nor more than four times the amount of such deficiency. 1850, c. 193, § 7.

SECT. 8. Every town at its annual meeting, shall choose by ballot, except in cases where it is already done, a superintending school committee, consisting of three persons, who at their first meeting shall designate by lot, one member of their board to remain in office three years; also another member, to remain in office two years, and the remaining member shall hold his office one year.

As soon as said committee have so determined the time of service of the several members, they shall deliver to the town clerk a certificate thereof, which he shall record on the town books. Every town at each annual meeting after the choice of such committee, shall choose by ballot one person to supply the place of that member of the committee whose term of service has expired, which office he shall hold for the term of three years. The town shall also at such meeting supply any vacancy that may then exist in said committee. The committee appointed as above, any two of whom shall constitute a quorum, shall be duly sworn, and paid for their services one dollar per day and all necessary travelling expenses, and no more, unless otherwise ordered by the town; but no superintending school committee shall be entitled to receive any compensation for their services, until they shall have furnished to the selectmen satisfactory evidence that they have made the full and complete returns required by law to the secretary of state.

1850, c. 193, § 8. 1855, c. 127.

SECT. 9. Any town, instead of the committee named in the preceding section, may choose some competent individual, annually, an inhabitant of said town, who shall be constituted a supervisor of the public schools of the town; the same to be duly sworn, and to have all the powers, privileges and duties, and in respect of all the provisions of this act, to stand in the place of a superintending school committee, as by law provided.

1853, c. 43. 1852, c. 268.

SECT. 10. Every town that shall in any year, neglect to choose such superintending committee or supervisor, shall forfeit and pay not less than thirty, nor more than two hundred dollars.

1850, c. 193, § 10.

SECT. 11. Any town, which shall, by a standing vote, provide for the purpose, may instead of a superintending committee and school agents, as hereinbefore provided, until they rescind such vote, elect their superintending committee annually, of such number not less than three, as they shall think proper, and may invest such committee with the rights, powers and obligations pertaining to school agents, as well as to a superintending committee, including the power and duty of determining the age at which scholars may be admitted into the respective schools, of transferring scholars from one school to another, and of laying out the money raised for supporting schools and defraying the contingent expenses thereof, and such others of said powers as may be useful and necessary in managing the business committed to them. 1850, c. 193, § 11.

SECT. 12. And any town, which shall determine to elect a superintending committee, with the powers of school agents and superintending school committee, as provided in the preceding section, may elect said committee annually, or may elect one-third of said committee each year, in the same manner that towns elect their superintending school committees, as provided in the eighth section hereof. And any school district, which may determine to elect a district committee, as provided in the twenty-sixth section of this chapter, may elect the same annually, or one-third of the same each year, as towns are hereby authorized to elect their superintending school committees.

1854, c. 104, § 4, 5.

SECT. 13. Any portion of a town not containing inhabitants enough for a convenient separate organization as a district, and too remote for annexation to any district already formed, may be omitted in districting the town to which it belongs; and in such case, the assessors of such town shall appropriate their proportion of school money, according to the number of children, of the ages specified in section six, to be expended by such inhabitants, for the purpose of instruction, in such manner as the superintending committee shall order or approve, in writing under their hands. 1850, c. 193, § 12.

SECT. 14. Whenever any town shall raise a sum of money exceeding the amount required by section fifth of this article,

3 the excess may, if the town so vote, be apportioned among the
4 several school districts, in such manner as the selectmen and
5 superintending school committee may determine.

1850, c. 193, § 13.

SECT. 15. All towns are hereby authorized and required
2 to make all needful provisions and arrangements concerning
3 habitual truants, and children between the ages of six and
4 fifteen years, not attending school, without any regular and
5 lawful occupation, and growing up in ignorance, and may also
6 make such ordinances and by-laws respecting such children, as
7 shall be most conducive to their welfare and the good order of
8 such town, and there shall be annexed to such ordinances suitable
9 penalties, not exceeding for any one breach, a fine of twenty
10 dollars: *provided*, that said ordinances and by-laws, shall be
11 approved by any justice of the supreme court, and shall not be
12 repugnant to the laws of the state. 1855, c. 154.

SECT. 16. The several towns availing themselves of the pro-
2 visions of the preceding section, shall appoint at their annual
3 meeting, three or more persons, who alone shall be authorized
4 to make the complaints in every case of violation of said ordi-
5 nances or by-laws, to the justice of the peace, or other judicial
6 officer, who by said ordinances shall have jurisdiction in the
7 matter, which persons, thus appointed, shall alone have authority
8 to carry into execution the judgments of said justices of the
9 peace, or other judicial officers. 1850, c. 193, § 15.

SECT. 17. The said justices of the peace, or other judicial
2 officers, in all cases, at their discretion, in place of the fine afore-
3 said, shall be authorized to order children, proved before them
4 to be growing up in truancy, and without the benefit of the
5 education provided for them by law, to be placed for such
6 periods of time as they may judge expedient, in such institution
7 of instruction, or house of reformation, or other suitable situa-
8 tion, as may be assigned or provided for the purpose, under the
9 authority conferred by the fifteenth section of this act, in each
10 town availing itself of the powers therein granted.

1850, c. 193, § 16.

ARTICLE II.—*Powers and Obligations of School Districts.*

SECT. 18. Every school district established as provided in 2 this chapter, whether being a part of one or more towns, shall 3 be a body corporate, with power to sue and be sued, and to hold 4 any estate real or personal, for the purpose of supporting a 5 school or schools therein; and to apply the same to such object 6 agreeably to the provisions of this act, independently of the 7 money raised by the town for that purpose.

1850, c. 193, art. 2, § 1.

SECT. 19. In all transactions by, or with, school districts, 2 they may be described by their numbers, in the order of their 3 creation under the votes of the town, or by any descriptive name 4 which they may assume, or by such general description as may 5 be applicable if they have no certain name.

1850, c. 193, art. 2, § 2.

SECT. 20. Every school district shall, in all cases, be pre- 2 sumed to have been legally organized, when it shall have 3 exercised the franchise and privileges of a district, for the term 4 of one year.

1850, c. 193, art. 2, § 3.

SECT. 21. Any person, qualified to vote in town affairs, shall 2 be a legal voter in the school district in which he resides.

1850, c. 193, art. 2, § 4.

SECT. 22. School district meetings, on the written applica- 2 tion of any three or more of the legal voters in such districts, 3 respectively, stating the reasons and objects of the proposed 4 meetings, may be called by the selectmen of the town, containing 5 such district; or by the school district agent or agents, if any 6 have been appointed.

1850, c. 193, art. 2, § 5.

SECT. 23. On receiving any such application, the selectmen 2 of the town, or the district agent, as the case may be, shall 3 cause notices specifying the time, place and purposes of the 4 meeting, seven days previous to the time appointed, to be posted 5 up in two or more public places within the district, one of which 6 must be on the school house, if there be any in the district; or 7 to be published in a newspaper printed in the town where such 8 district is situated, if there be any. The certificate of such 9 selectmen or agent, or of any person required by their warrant

10 to give such notice, returned at the time and place of meeting,
 11 shall be evidence of the notice stated in such certificate to have
 12 been given. 1850, c. 193, art. 2, § 6.

SECT. 24. Every school district, at any legal meeting thereof,
 2 may determine the manner in which notice of its future meet-
 3 ings shall be given. 1850, c. 193, art. 2, § 7.

SECT. 25. At every such meeting, a moderator shall be chosen
 2 who shall have the same powers and duties as a moderator of a
 3 town meeting, but need not be sworn; and at the first meeting
 4 every year, a clerk shall be chosen, and shall be duly sworn by
 5 the moderator, or a justice of the peace. It shall be the duty
 6 of the clerk, to make a fair record of all votes, passed at any
 7 meeting of the district during the year, and until another shall
 8 be chosen in his place and sworn; and he may certify copies
 9 from the records of such district. 1850, c. 193, art. 2, § 8.

SECT. 26. Such district may at any legal meeting, choose a
 2 committee to superintend the laying out and expending of the
 3 moneys raised by such district, agreeably to their votes, for any
 4 purposes for which such district may legally raise money; and
 5 to examine and allow such accounts, as they may find correct;
 6 and to draw orders on the town treasurer, for the amount of the
 7 moneys raised. 1850, c. 193, art. 2, § 9.

SECT. 27. Every school district, at its annual meeting, shall
 2 choose by ballot a school agent, unless such agent shall be
 3 chosen by the town, as provided in section third, of this chap-
 4 ter, and may at any meeting called for that purpose, supply
 5 any vacancy that may occur in the office of agent, and such
 6 agent, whether chosen by the town, or by the district, shall be
 7 sworn by the moderator or clerk of the meeting, or by some
 8 justice of the peace. 1850, c. 193, art. 2, § 10.

SECT. 28. The inhabitants of any school district, qualified to
 2 vote in town affairs, at any legal meeting called for the purpose,
 3 shall have power:—

First. To raise money for the purpose of erecting, repairing,
 5 purchasing and removing a school house, and for the purpose of
 6 erecting, repairing, renting, purchasing and removing such a
 7 number of school houses as the wants of such district may re-
 8 quire, where more than one school house is necessary to accom-

9 modate the scholars in such district; and also for the purpose of
 10 erecting or removing out-buildings, connected with such house
 11 or houses,—of purchasing or renting land upon which the same
 12 may stand, and for yards and play grounds, and for purchasing
 13 a library, utensils, black-boards, globes, maps and other useful
 14 apparatus—providing water for the school house or houses by
 15 means of wells and aqueducts, with necessary conveniences for
 16 the health and comfort of teachers and pupils, and for the pur-
 17 pose of enclosing the grounds and appurtenances of the school
 18 houses, with power to sell and dispose of any such property,
 19 whenever it becomes necessary and proper to do so.

Secondly. To determine where the school house or houses
 21 shall be located in said district.

Thirdly. To determine at what age the youth, within such
 23 district, may be admitted into the schools kept by a master or
 24 mistress respectively, and whether, and upon what terms,
 25 scholars may be admitted into such schools from other school
 26 districts, or from other towns or places.

Fourthly. If they think proper, to instruct the agent at what
 28 time their schools shall commence; with which directions, the
 29 agent shall comply, so far as practicable; and

Fifthly. To join with one or more other school districts, for
 31 the purpose of uniting the more advanced scholars of each dis-
 32 trict in one school. And when any districts shall so determine,
 33 they may appropriate such a proportion of the school money of
 34 each district, as they deem proper, provided that if one-fourth
 35 of the voters present and voting at any meeting called for the
 36 purpose, shall dissent from the decision of the majority, no more
 37 than the per capita share of the scholars attending such union
 38 school, shall be so appropriated, without the written assent of
 39 the superintending school committee.

1850, c. 193, art. 2, § 11.

SECT. 29. Any two or more school districts, in any town in
 2 the state, may unite for the purpose of establishing and main-
 3 taining a system of graded free schools, whenever a majority of
 4 legal voters present and voting at a meeting of the inhabitants
 5 of each district legally called for the purpose, shall so deter-
 6 mine.

1852, c. 243, § 1.

SECT. 30. Whenever two or more school districts, in any town, have voted to unite for the purpose and in the manner named in the first section of this act, the clerk of each of said districts shall forthwith furnish the town clerk of the town in which said districts are situated, with a certified copy of such votes, and the town clerk shall enter said votes upon the records of such town, and from and after such record, such districts shall constitute one district, to be known by such name or title as the inhabitants thereof shall adopt, and shall have all the rights and powers and be subject to all the liabilities of other school districts. 1852, c. 243, § 2.

SECT. 31. After two or more school districts have united as provided for in the foregoing sections of this act, the town in which such districts are situated, shall not have power to alter or divide the same, without the consent of a majority of the voters of such district. 1852, c. 243, § 3.

SECT. 32. The inhabitants of any district organized under this chapter, are hereby authorized, at their annual district meeting, to raise such sum of money, in addition to their proportion of the school money raised by the town, as may be necessary for the support of the public free schools within said district; but the additional amount so raised by such district in any year, shall not exceed three-fifths of the amount apportioned to said district from the school money raised by the town for the same year. 1852, c. 243, § 4.

SECT. 33. Whenever, at any meeting of a school district, legally called, for raising money for any particular purpose, a majority of the legal voters present shall be opposed to the raising of any sum of money, deemed by the minority sufficient for that purpose, the selectmen of the town, on application in writing, of any five or more voters in such district, made within thirty days after such meeting, shall insert, in their warrant for calling the next town meeting on town affairs, an article requiring the opinion of the town on the subject of disagreement; and if the town, at such meeting, shall think it necessary or expedient, they may require a sum sufficient for the purpose aforesaid, if exceeding what said district were willing to raise, to be assessed on the polls and estates in such district; and the

14 same shall be assessed, collected and paid over, in the same
15 manner as if originally raised by such district; and thereupon
16 it shall be the duty of the selectmen of the town to appoint, in
17 writing, three suitable inhabitants of said district, to be a com-
18 mittee to superintend the expenditure of the money so assessed
19 and raised, for the purpose required, who shall have all the
20 powers of a committee chosen by the district, in pursuance of
21 the provisions of this chapter. 1850, c. 193, art. 2, § 12.

SECT. 34. At any district meeting, called for the purpose of
2 erecting or locating a school house, in any district where none
3 exist, or of removing or erecting any such school house, in a
4 different place from that previously occupied for the purpose, if
5 a disagreement shall arise, and the voters in favor of the object,
6 in either case, shall be less than two-thirds of the legal voters
7 present at such meeting and voting, the clerk, at the meeting,
8 shall make a record of the fact; and the selectmen of the town
9 on application, in writing, from any three or more of the voters
10 in such district, or of any committee of such district made within
11 thirty days thereafterwards, shall, as soon as may be, appoint
12 a time and place, within the district, to hear the inhabitants
13 thereof, on the subject matter of such disagreement, and give such
14 notice as is required for a legal meeting of the inhabitants of
15 said district; and, after such hearing, may decide where such
16 school house shall be placed, and shall within ten days, give a
17 certificate of their determination to the clerk of the district, who
18 shall forthwith enter the same upon his records; and the district
19 shall proceed to erect, or remove, the school house, in the same
20 manner, as if determined by a sufficient majority of the legal
21 voters present at said meeting: *provided, however,* that no
22 selectman residing in such district shall be allowed to have any
23 voice in the determination; and whenever a majority of the
24 selectmen of any town shall reside in one school district, in
25 which it becomes necessary so to locate a school house, or shall
26 not be able to agree, the superintending school committee of
27 said town shall be required to do all the duties in relation to
28 locating said house which by this section are required of the
29 selectmen. 1850, c. 193, art. 2, § 13.

SECT. 35. If the district shall refuse, or for the space of sixty
2 days, neglect, to carry into effect the order of the selectmen or
3 superintending school committee as aforesaid, the selectmen or
4 superintending school committee either personally or by agents
5 appointed for that purpose, at the expense of the district, shall,
6 if need be, purchase a situation for said house, and shall cause
7 the same to be erected or removed, as the case may be, upon
8 the place so appointed. 1850, c. 193, art. 2, § 14.

SECT. 36. And when a suitable place shall have been de-
2 signated, which shall be at least ten rods from any dwelling
3 house, by any town or school district, or in the manner afore-
4 said, for the erection or removal of a school house and necessary
5 buildings, agreeably to the provisions of law; and the owner of
6 the land shall refuse to sell the same, or shall demand therefor
7 an unreasonable price in the opinion of the municipal officers,
8 the said municipal officers may proceed to select a school house
9 lot, and lay out the same, not exceeding forty square rods, and
10 to appraise the damages to the owner of such land,—in the same
11 manner as is provided for laying out town ways, and appraising
12 damages sustained thereby, and upon payment or tender of pay-
13 ment of the amount of such damages, by the town or district
14 designating such lot, to the owner thereof, the said land shall
15 be taken, held and used, for the purpose aforesaid.

1854, c. 104, § 7.

SECT. 37. Whenever the owner of such land shall feel ag-
2 grieved by the selection and location of such lot, and the dama-
3 ges awarded, he shall be entitled to have the matter of complaint
4 tried by a jury, which may be applied for within one year after
5 the location of such lot, and shall be ordered accordingly by the
6 county commissioners: and the jury shall have power to change
7 the location and assess the damages, and the proceedings shall,
8 in all respects, be conducted in the same manner as is provided
9 in cases of damages by laying out highways; and if the dama-
10 ges shall be increased, or the location be changed by the jury,
11 the damages and all charges shall be paid by the town or district
12 for whose benefit the lot is selected; otherwise, the charges
13 which may arise on such application, shall be paid by such appli-

14 cant. And the land so taken, shall be held and used for no
 15 other purpose than that contemplated in this chapter, and shall
 16 revert to the owner, his heirs, or assigns, upon the discontinu-
 17 ance thereon, for two years, of such school as is required of the
 18 town or district, by law. 1854, c. 104, § 8.

SECT. 38. Whenever any school district shall vote to erect
 2 or re-construct a school house, the plan of the same shall first
 3 be submitted to the superintending school committee of the town,
 4 for their approval. 1850, c. 193, art. 2, § 15.

SECT. 39. Any school district, at a legal meeting, may deter-
 2 mine whether all, or what proportion of their school money,
 3 shall be expended for the support of a school, to be taught by a
 4 female; and their agent shall expend the same accordingly.
 5 But in case one-fourth part of the voters present and voting at
 6 said meeting, dissent from the decision of the majority, not more
 7 than one-third part of such money shall be expended for a
 8 school taught by a female, without the written assent of the su-
 9 perintending school committee. 1850, c. 193, art. 2, § 16.

SECT. 40. Whenever the school in any district shall be kept
 2 in part by a mistress, and in part by a master, the inhabitants
 3 of such district, at a legal meeting, may determine by vote or
 4 may authorize the superintending school committee to determine
 5 from time to time, what description of scholars shall attend each
 6 school respectively. 1850, c. 193, art. 2, § 17.

SECT. 41. Each school district, where the number of scholars
 2 attending school is such as to require more than one school to
 3 be kept at the same time, shall have the power of choosing a
 4 committee to determine what description of scholars shall attend
 5 each school, to classify said scholars and to transfer them from
 6 school to school in said district, and when no such committee
 7 shall be chosen by any school district above described, the su-
 8 perintending school committee of the town shall have all the
 9 powers and perform all the duties above mentioned.

1850, c. 193, art. 2, § 18.

SECT. 42. Any school district is hereby authorized to pur-
 2 chase, with any money that may be appropriated to said district
 3 for school purposes, a school library and apparatus, or either,
 4 for the use of the school: *provided*, a majority of the district

5 shall so vote. But there shall not be expended in one year,
6 more than ten per centum of the whole amount appropriated to
7 any district in the year. 1850, c. 193, art. 2, § 19.

SECT. 43. If any two adjacent districts shall severally vote
2 to unite for the purchase of a library and apparatus, or either,
3 they are hereby authorized so to do.

1850, c. 193, art. 2, § 20.

SECT. 44. Every district that purchases a library and appa-
2 ratus, or either, as aforesaid, shall make such rules and regula-
3 tions, for the preservation and management of the same, as they
4 may deem proper. 1850, c. 193, art. 2, § 21.

ARTICLE III.—*Assessment and collection of money raised or
borrowed by School Districts.*

SECT. 45. When any money shall be voted to be raised by
2 any district, pursuant to the first specification of section twenty-
3 eight, the clerk shall forthwith, or within such time as the
4 district may prescribe, certify to the assessors of the town the
5 amount voted to be raised for any or all the purposes aforesaid.

1850, c. 193, art. 3, § 1.

SECT. 46. Within thirty days after receiving the certificate
2 of the clerk, as aforesaid, the assessors of such town shall assess
3 in the same manner as town taxes are assessed, on the polls and
4 estates of the inhabitants composing such school district, whether
5 it be wholly within their town or not, and on lands lying within
6 the same, belonging to persons not living therein, whether
7 improved or unimproved, all moneys voted to be raised by the
8 inhabitants of such district, for the purposes aforesaid: *provided*,
9 that no inhabitant shall be taxed for any real estate not lying
10 within such district. 1850, c. 193, art. 3, § 2.

SECT. 47. Said assessors shall make their warrant in due
2 form of law, directed to any one of the collectors of their town,
3 or of said district, or a constable, if there be no collector, re-
4 quiring and empowering said collector or constable, to levy and
5 collect the tax, so assessed, and pay the same, within the time
6 limited by the warrant, to the treasurer of the same town; to
7 whom, also, the assessors shall give a certificate of the assess-
8 ment, as in the case of town taxes. 1850, c. 193, art 3, § 3.

SECT. 48. Such collector or constable, in collecting all district
2 taxes, shall have the same powers and be held to proceed in the
3 same manner as in the collection of town taxes.

1850, c. 193, art. 3, § 4.

SECT. 49. The treasurer of the town, who shall receive from
2 the assessors a certificate of the assessment of a district tax, as
3 provided in section three, shall have the same authority to
4 enforce the collection and payment thereof, or sue for the same,
5 as of town taxes; and if such treasurer be also the collector of
6 such towns, he may collect the same in the same manner, as far
7 as applicable to the case.

1850, c. 193, art. 3, § 5.

SECT. 50. The said assessors shall have the like power to
2 abate any district tax, as they have to abate a town tax.

1850, c. 193, art. 3, § 6.

SECT. 51. The money so raised, collected and paid, shall be
2 at the disposal of the committee of the district, chosen and
3 authorized pursuant to the provisions of the twenty-sixth section.

1850, c. 193, art. 3, § 7.

SECT. 52. The assessors, collector and treasurer shall be
2 allowed, by the school district, for assessing, collecting, receiv-
3 ing and paying any district tax, or tax to pay instalments of
4 borrowed money as herein provided, a compensation proportion-
5 ate to what they receive for similar service for town taxes.

1850, c. 193, art. 3, § 8, 14.

SECT. 53. Any school district by a vote of two-thirds of the
2 legal voters present and voting at a legal meeting called for that
3 purpose, shall have power to borrow money, for the purpose of
4 erecting a school house and of purchasing land on which the
5 same may stand.

1850, c. 193, art. 3, § 9.

SECT. 54. Every such loan shall be made for a term of time,
2 not exceeding ten years, and shall be payable in equal annual
3 instalments.

1850, c. 193, art. 3, § 10. 1852, c. 233.

SECT. 55. When any school district shall vote to borrow money
2 for such purpose, the clerk shall forthwith certify such vote to the
3 assessors and treasurer of the town.

1850, c. 193, art. 3, § 10.

SECT. 56. The district may appoint an agent or agents to
2 contract a loan as aforesaid, who are authorized to bind the dis-
3 trict therefor, and to give the necessary evidences of debt there-

4 for, and a copy of such evidence of debt or security, shall be by
5 such agent or agents, filed with the town clerk of the town, and
6 the clerk shall enter the same on the town records. The money
7 procured on such loan shall be received by the treasurer of the
8 town, and shall be applied and paid out for the purposes afore-
9 said, in the same manner as is herein provided in case of money
10 raised for the same purposes by taxation.

1850, c. 193, art. 3, § 12.

SECT. 57. At each annual assessment of town taxes, after
2 the receipt of such money by the treasurer of the town, the as-
3 sessors of the town shall assess the amount of the instalment and
4 interest payable in that year, upon the polls and estates of the
5 inhabitants of such district, in the same manner as is herein
6 provided for the assessment of moneys voted to be raised by any
7 school district, by taxation. And such annual instalments as-
8 sessed as aforesaid, shall in like manner be collected and paid to
9 the treasurer of the town aforesaid. And the treasurer shall
10 pay the amount of each instalment and interest, as the same
11 becomes payable, on demand of the person to whom the same
12 may be lawfully due.

1850, c. 193, art. 3, § 13.

SECT. 58. No school district shall be authorised to borrow
2 money, except for the purposes and under the regulations herein
3 prescribed.

1850, c. 193, art. 3, § 15.

SECT. 59. Whenever any money shall be voted to be raised
2 by any school district, in accordance with the provisions herein
3 contained, the legal voters of said district, at any legal meeting
4 called for the purpose, may elect by written ballot, a collector,
5 who shall be required to give bonds to the inhabitants of such
6 district, with sufficient sureties, to be approved by the select-
7 men, and shall have the same powers, and be held to proceed in
8 the same manner in collecting the taxes assessed upon said dis-
9 trict, as in the collection of town taxes by a town collector.

1850, c. 193, art. 3, § 16.

SECT. 60. Such collector shall be allowed such compensation
2 for collecting and paying over to the town treasurer said taxes,
3 as shall be determined upon by the inhabitants of said district,
4 at the meeting at which said collector is chosen.

1850, c. 193, art. 3, § 17.

SECT. 61. Whenever the inhabitants of any school district 2 shall elect a collector in pursuance of this chapter, it shall be 3 the duty of the clerk of said district to deposit with the clerk of 4 the town in which the district is situated, a certified copy of the 5 record of the election of said collector, which shall be recorded 6 by the clerk of the town, and such town record shall be evidence 7 of the election of said collector by said district.

1850, c. 193, art. 3, § 18.

SECT. 62. The provisions of the three preceding sections, for 2 the choice of collectors by school districts, shall not apply to any 3 school district, where the sum voted to be raised and assessed 4 shall not exceed the sum of three hundred dollars.

1850, c. 193, art. 3, § 19.

ARTICLE IV.—*School Districts Formed from Two or More Towns.*

SECT. 63. Whenever it shall be found convenient to form a 2 school district, from parts of adjoining towns, such towns re- 3 spectively concurring therein, may establish such district and 4 determine the limits thereof; and such towns by their concur- 5 rent votes may alter and discontinue the same; and they and 6 their officers, except as otherwise herein provided, may exercise 7 all the powers and duties in reference to such districts, as may 8 be exercised by any town, in reference to school districts within 9 its own limits: *provided*, that where such district, formed from 10 two or more towns, has existed for the term of fifteen years, 11 either town may disconnect its own inhabitants from such dis- 12 trict without the concurrence of the other town or towns—*pro-* 13 *vided, further*, that all district property shall be left within 14 the limits of, and belong to the original district.

1850, c. 193, art. 4, § 1.

SECT. 64. Every district established by two or more towns, 2 shall choose its own agent, annually, and his contracts shall be 3 binding upon such towns, respectively in proportion to, and not 4 exceeding, the amount which each town is required to pay to 5 such agent under the provisions of this article.

1850, c. 193, art. 4, § 2.

SECT. 65. The assessors of each town, from which any part 2 of such district shall have been formed, shall assign to such

3 district a proportion of the money by law to be distributed
 4 among the districts in such town, according to the number of
 5 children belonging to such town, within the limits of said school
 6 district. And when any district is so formed, the powers speci-
 7 fied in sections thirty-four and thirty-five, to be exercised by
 8 any town, or selectmen, or superintending school committee,
 9 may be exercised by the concurrent vote of said towns, or the
 10 joint acts of the selectmen or superintending school committees
 11 of such towns, and application shall be made to each of them
 12 accordingly. And the provisions of sections thirty-six and
 13 thirty-seven shall also apply to such districts.

1850, c. 193, art. 4, § 3.

SECT. 66. When any school district shall be formed from
 2 parts of two or more towns, as aforesaid, the superintending
 3 school committee, selectmen, assessors, treasurer, collector and
 4 constable of the town in which the school-house of such district
 5 is situated, or has been located, or in which the school of such
 6 district is kept, or if there be no such school-house or school,
 7 the aforesaid officers of the oldest towns, from which any part
 8 of such district shall have been taken, shall, in respect of such
 9 district, have all the powers and perform all the duties, and be
 10 deemed to all intents, to stand in the place of such officers, in
 11 respect to school districts situated wholly in any one town; and
 12 the assessors aforesaid shall assess all taxes voted by said district
 13 according to a valuation made by themselves for that purpose,
 14 which shall be uniform throughout said district. 1854, c. 80.

SECT. 67. All agents and other officers of districts formed as
 2 aforesaid, shall have the same powers and privileges, and shall
 3 perform the same duties as agents and other officers of districts
 4 situate wholly in any one town. 1850, c. 193, art. 4, § 5.

ARTICLE V.—*Powers and Duties of Superintending School Committees.*

SECT. 68. All superintending school committees, appointed
 2 as provided by law, shall perform the following duties, to wit:

First. To appoint a person to supply any vacancy occurring
 4 in their board, until the next annual town meeting; and when
 5 by reason of resignation, removal or death, there shall be but

6 one member of the committee in office, he shall have power, and
7 it shall be his duty to fill said vacancy.

Secondly. To appoint suitable times and places for the pur-
9 pose of examining all candidates proposing to teach in town;
10 said candidates shall produce satisfactory evidence that they
11 sustain a good moral character and possess a temper and dispo-
12 sition suitable to be instructors of youth.

Thirdly. To examine such candidates in reading, spelling,
14 writing, English grammar, geography, history, arithmetic and
15 other branches usually taught in public schools, and particularly
16 in the school for which such persons are examined; and also as
17 to capacity for the government and discipline of said school.
18 And if on such examination, such persons are found competent,
19 said committee shall grant a certificate that such persons are
20 qualified to govern said school, and to instruct in the branches
21 above named, and such other branches as are necessary to be
22 taught in said school.

Fourthly. To direct the general course of instruction, and
24 what books shall be used in the respective schools.

Fifthly. To visit and inspect the several schools, and inquire
26 into the regulations and discipline thereof, and of the proficiency
27 of the scholars therein; and to use their influence and best
28 endeavors that the youth in the several districts regularly attend
29 the schools; and particularly, to provide, that one or more of
30 the board shall visit each school within the town, at least twice,
31 during the term for which it is kept.

Sixthly. After due notice and a candid investigation of the
33 facts, to dismiss any schoolmaster or mistress, who shall be
34 found, in their opinion, incapable or unfit to teach, or whose
35 services are believed by them to be unprofitable to such school,
36 notwithstanding their having procured the requisite certificate;
37 *provided*, that such dismissal shall not operate to deprive such
38 master or mistress of their right to compensation for services
39 previous to such dismissal; and said committee shall immedi-
40 ately give notice thereof in writing, to the agent of the district,
41 and shall also deliver, or cause to be delivered, to such teacher,
42 a certificate of dismissal, under their hands, stating the reasons
43 of such dismissal, a copy of which they shall preserve.

Seventhly. To expel from any school, any obstinately disobedient and disorderly scholar, after a proper investigation of his behavior, if found necessary for the peace and usefulness of the school; also to restore him to the school, on satisfactory evidence of his repentance and amendment.

Eighthly. To exclude, if they deem expedient, from the public schools of the several towns, all those persons entitled by law to admission thereto, who shall not have been vaccinated.

Ninthly. To make a written report at the annual meeting next after their appointment, of the standing of, and progress made in the several schools, in the various branches of learning therein taught, and the success which may have attended the mode of instruction and government of their respective teachers.

1850, c. 193, art. 5, § 1.

SECT. 69. The superintending school committee of the several towns, shall, annually, make out a statement, containing the following particulars:

First. The amount of money raised and expended for the support of schools, designating, what part is raised by taxes, and what part from other funds, and how such funds have accrued.

Secondly. The number of school districts, and parts of districts, in their towns respectively.

Thirdly. The number of children belonging to such town, in each district, between the ages of four and twenty-one years, as the same existed, on the first day of May preceding.

Fourthly. The number of children between the ages above specified, who reside upon islands, or in any other part of the town, not classed with any district.

Fifthly. The whole number of scholars attending the summer schools,—the average number of scholars attending the summer schools,—the whole number of scholars attending the winter schools,—the average number of scholars attending the winter schools.

Sixthly. The average length of the summer schools in weeks,—the average length of the winter schools in weeks,—the average length of the schools for the year.

Seventhly. The number of male teachers who have been employed in the public schools during any part of the year,—the number of female teachers who have been so employed.

Eighthly. The wages of male teachers per month, exclusive of board,—the wages of female teachers per week, exclusive of board.

Ninthly. And said committee, in said returns, shall give full and complete answers to the inquiries contained in the blank forms which shall be furnished to them, under the provisions of law; and they shall certify that such statement is true and correct, according to their best knowledge and belief, and shall transmit the same to the office of the secretary of state, on or before the first day of April in each year; and when by reason of removal, resignation or death, there shall be but one member of the committee left, it shall be his duty to make said returns. And in any plantation where no superintending school committee has been elected, the assessors or clerk may make the required returns. 1850, c. 193, art. 5, § 2. 1852, c. 273.

1853, c. 9. 1853, c. 9, § 2.

SECT. 70. If any parent, master or guardian, after notice given him by the master or mistress of any district school that any child, under his care, is deficient of the necessary school books, refuse or neglect to furnish such child with the books required, the superintending school committee of the town, on being notified, by said master or mistress, of such refusal or neglect, shall furnish the same at the expense of the town; which expense may be added to the next town tax of such delinquent parent, master or guardian. 1850, c. 193, art. 5, § 3.

ARTICLE VI.—*Powers and Duties of School Agents.*

SECT. 71. School agents, whether elected by the town, or by their respective districts, shall be duly sworn; and shall continue in office one year, and until others are chosen and qualified in their stead; their duties and powers shall be as follows:

First. In the month of March or April, annually, to call district meetings for the choice of agents, and for other business, by causing notice so be given, as provided in the fifth and sixth sections of article second of this act.

Secondly. To hire the school masters or mistresses for their 10 respective districts, from the money assigned to them by the 11 assessors of their towns, pursuant to provisions of section six of 12 article one, and from any other funds placed at their disposal 13 for the purpose.

Thirdly. From the same means to provide fuel and utensils 15 necessary for the schools, and to make incidental repairs upon 16 the school-houses and outbuildings, and insurance, if the district 17 so direct: *provided*, that no more than one tenth part of the 18 moneys, received from the town, shall, in any one year, be 19 expended for such repairs, exclusive of fuel and insurance.

Fourthly. Before the commencement of any term of such 21 schools, to give notice to a member or members of the superin- 22 tending school committee of the town, of the time when the 23 school is to commence; whether to be kept by a master or mis- 24 tress; and for how long a time such instructor is engaged.

Fifthly. To return to the selectmen of the town, prior to the 26 expiration of his term of service, an account of his expenditures, 27 by virtue of the authority herein granted, accompanied with the 28 necessary vouchers therefor.

Sixthly. To return to the assessors of their respective towns 30 in the month of May, annually, a list by them certified to be 31 true, of the children in their districts, of the age of four years 32 and upwards, and under the age of twenty-one years, as they 33 existed on the first day of said month, exclusive of such as may 34 have come from other places, where they belong, to attend any 35 college or academy, or to labor in any factory, in any such 36 district; and in case said agents fail to make the returns afore- 37 said, the assessors, as soon as may be thereafter, shall make or 38 cause to be made, an enumeration of the persons aforesaid in 39 such districts. 1850, c. 193, art. 6, § 1.

SECT. 72. It shall be the duty of each school agent, to expend 2 the money apportioned to his district, for the support of schools 3 taught by instructors, duly qualified, in said district, within the 4 year for which such agent may have been chosen; and, if any 5 such agent shall refuse or neglect so to expend said money, so 6 far as may be practicable, the municipal officers of the town, in 7 which the district is situated, may, on complaint by any inhab-

8 itant of said district, and after due notice and investigation,
 9 appoint a special agent to expend the money as aforesaid. The
 10 special agent, so appointed, shall be sworn in the same manner
 11 as school agents are required to be sworn, and shall have all
 12 the powers and perform all the duties of school agent for said
 13 district. Any money, received by any school agent, for the use
 14 of the district, and not appropriated by him to the use of said
 15 district during his term of office, or before the appointment of
 16 such special agent, may be recovered from him in an action of
 17 the case. Any action, brought to recover money, received by
 18 any school agent for the use of the district, may be maintained
 19 in the name of the town or district. 1854, c. 104, § 3.

SECT. 73. If any school agent shall neglect to give notice in
 2 writing to the school committee of the time when the school in
 3 his district is to commence, whether the same is to be kept by a
 4 master or mistress and how long the said school is expected to
 5 continue in operation, he shall forfeit one dollar, for each day
 6 the school shall continue without such notice having been given.
 1855, c. 150.

ARTICLE VII.—*Duties and Qualifications of Instructors.*

SECT. 74. It shall be the duty of every teacher of a public
 2 school to keep a school register, containing the names of all the
 3 scholars who enter the school, their ages, the date of each
 4 scholar's entering and leaving school, the number of days of
 5 each scholar's attendance, the length of the school, the teacher's
 6 wages, a list of text books used, and such other facts as may be
 7 required by the blank form, furnished under the provisions of
 8 law; which register shall, at all times, be open to the inspection
 9 of the school committee, and a return of the same be made to
 10 said committee at the close of the school. And no teacher shall
 11 be entitled to pay for his or her services, until the register for
 12 his or her school, properly filled up, completed and signed, shall
 13 be deposited with the school committee, or with such persons as
 14 they may designate to receive it. 1850, c. 193, art. 7, § 1.

SECT. 75. It shall be the duty of the presidents, professors,
 2 and tutors of colleges, and of the preceptors and teachers of
 3 academies, and all other instructors of youth, whether in public

4 or private institutions, to take diligent care, and exert their best
 5 endeavors, to impress on the minds of the children and youth,
 6 committed to their care and instruction, the principles of morality
 7 and justice, and a sacred regard to truth; love to their country,
 8 humanity and a universal benevolence; sobriety, industry and
 9 frugality; chastity, moderation and temperance; and all other
 10 virtues, which are the ornaments of human society. And it
 11 shall be the duty of such instructors to endeavor to lead those
 12 under their care, as their ages and capacities will admit, into a
 13 particular understanding of the tendency of the beforementioned
 14 virtues, to preserve and perfect a republican constitution, and
 15 secure the blessings of liberty, as well as to promote their future
 16 happiness; and the tendency of the opposite vices, to slavery,
 17 degradation and ruin. 1850, c. 193, art. 7, § 2.

SECT. 76. Any person, who shall teach any district school
 2 without first obtaining from the superintending school committee
 3 of the town, the certificate referred to in the first section of
 4 article five, shall forfeit and pay a sum not exceeding the sum
 5 contracted for his or her daily wages, for each day he or she
 6 shall so teach such school, and shall be barred from receiving
 7 any pay for teaching the same: *provided*, that no certificate
 8 shall be valid for more than one year, without the approval of
 9 the superintending school committee, annually endorsed thereon.
 1850, c. 193, art. 7, § 3.

ARTICLE VIII.—*Relating to Schools in certain Plantations.*

SECT. 77. All plantations within this state, organized for
 2 election purposes only, are hereby vested with the same powers,
 3 and shall be subject to the same duties, of other plantations
 4 within the state, so far as the same relate to the erection of
 5 school districts and the apportionment and expenditure of any
 6 moneys which they now are, or may hereafter be entitled to
 7 receive as their proportion of any bank tax, or which may arise
 8 from any act of bounty on the part of the state, or the interest
 9 of the permanent school fund. 1850, c. 193, art. 8, § 1.

SECT. 78. All plantations organized for election purposes
 2 only, are hereby authorized and required in May, annually, to
 3 raise money for schools; to divide said plantations into school

4 districts; to choose superintending school committees, school
5 district agents, treasurers, collectors, and all other legal officers,
6 in the same manner, to the same extent, under the same liabili-
7 ties and penalties, and with the same power of assessing and
8 collecting said money, and of enforcing accountability and obliga-
9 tions on the part of said officers, as towns now have; so that said
10 plantations, so far as raising and expending money for schools
11 are concerned, shall, in all respects, be in the same condition,
12 and have the same power, as towns; *provided*, that the amount
13 so raised shall not exceed the sum of one dollar to each inhab-
14 itant of said plantation. 1855, c. 175, § 1.

SECT. 79. The assessors of said plantations are hereby au-
2 thorized and required to assess a tax upon all the polls and
3 estates within their respective plantations, for the purposes
4 aforesaid, and commit a list thereof to the collector, in the same
5 manner as assessors of towns. 1855, c. 175, § 2.

SECT. 80. The assessors of said plantation shall issue their
2 warrant for the calling of district meetings in their respective
3 plantations, in the same manner that selectmen of towns are
4 authorized to issue their warrants for the calling of district
5 meetings in their respective towns; and the said plantation
6 school districts shall have power to choose all district officers,
7 which school districts in towns have; and said officers shall have
8 the same powers and be subject to the same duties, of school
9 district officers in towns. 1850, c. 193, art. 8, § 3.

SECT. 81. The assessors of said plantations shall have power
2 to commence and prosecute to final judgment, in their official
3 capacity, a suit at law, on any bond given them or their prede-
4 cessors in office, whenever any condition in said bond shall be
5 broken. 1850, c. 193, art. 8, § 4.

SECT. 82. All school districts in such plantations, shall have
2 power to raise money to hire, buy or build, a suitable school-
3 house for the benefit of the district. 1850, c. 193, art. 8, § 7.

SECT. 83. All school district meetings shall be called by the
2 assessors of the plantation, on the written application of three
3 or more of the legal voters of such district, stating the reason
4 and objects of their proposed meeting; and at such meeting, the

5 inhabitants of said district shall have power to raise money for
6 the purposes stated in the eighty-second section.

1850, c. 193, art. 8, § 8.

SECT. 84. Whenever such school district shall vote to raise
2 any sum or sums of money, the assessors shall make out a
3 valuation of the property, real and personal, that is liable to be
4 taxed, except wild lands, including improved real estate, whether
5 owned by a resident in the district or not, together with all the
6 polls in said district.

1850, c. 193, art. 8, § 9.

SECT. 85. The assessors shall assess the tax, and commit the
2 same to the collector, who shall collect it, and pay it over to the
3 treasurer, in order that it may be appropriated to the purposes
4 for which it was raised.

1850, c. 193, art. 8, § 10.

ARTICLE IX.—*Superintendent of Common Schools, and County
Conventions of Teachers.*

SECT. 86. There shall be appointed by the governor and
2 council a superintendent of common schools, who shall be duly
3 sworn, and whose term of office shall continue for three years,
4 or during the pleasure of the executive; and on the occurrence
5 of a vacancy in said office, a new appointment shall be made for
6 a like term.

1854, c. 89, § 1.

SECT. 87. It shall be the duty of the superintendent to devote
2 his time to the improvement of common schools and the promo-
3 tion of the general interests of education in this state. He shall
4 carefully investigate the operation of our school laws; collect
5 information in regard to the arrangement of school districts, the
6 location and construction of school-houses and the use of the
7 best school apparatus; consult and advise with superintending
8 school committees on the selection of text books adapted to the
9 wants of schools, and on the methods of ascertaining the quali-
10 fications of teachers, and of visiting and examining schools,
11 inquire into the most approved modes of teaching, and the best
12 means of training and qualifying teachers for their duties;
13 examine the returns made by superintending school committees
14 to the office of the secretary of state, and obtain from them such
15 facts and statistics as may be useful, and in general, procure

16 information from every available source, for the improvement of
17 common schools. 1854, c. 89, § 2.

SECT. 88. It shall be the duty of the superintendent, by
2 correspondence with teachers, school officers and others, and by
3 public addresses from time to time in different parts of the
4 state, to disseminate the information he may have acquired, and
5 endeavor to awaken a more general interest in public education.
1854, c. 89, § 3.

SECT. 89. The superintendent shall annually, prior to the
2 session of the legislature, make a report to the governor and
3 council of the results of his inquiries and investigations, and of
4 the facts obtained from the school returns, including such
5 suggestions and recommendations as in his judgment will best
6 promote the improvement of common schools. 1854, c. 89, § 4.

SECT. 90. The superintendent shall receive an annual salary
2 of twelve hundred dollars, payable quarterly; and he shall
3 render an account of his traveling and other necessary expenses
4 to the governor and council, to be by them audited and paid out
5 of the treasury of the state. 1854, c. 89, § 5.

SECT. 91. The superintendent shall prepare blank forms for
2 all returns which are required by law, or which he may deem
3 necessary to be made by school officers and teachers; and such
4 blank forms shall be printed and distributed by the secretary of
5 state. 1854, c. 89, § 6.

SECT. 92. It shall be the duty of all superintending school
2 committees, supervisors and district committees, whose annual
3 reports shall be printed, to forward copies thereof to the super-
4 intendent. 1854, c. 89, § 7.

SECT. 93. The superintendent shall hold annually, in each
2 county, a teachers' convention, to continue in session one week
3 at least; and it shall be his duty to give due notice of such con-
4 vention to all teachers and persons proposing to become such,
5 and to invite their attendance for the purpose of mutual con-
6 sultation, discussion and instruction; and for that of receiving
7 lectures and addresses on subjects relating to education and the
8 duties of teachers. 1854, c. 89, § 8.

SECT. 94. The superintendent shall attend and have the
2 charge of each convention; and shall employ suitable instructors

3 and lecturers to instruct and address those who may there
4 assemble, with the view of aiding them in qualifying themselves
5 for a better and more successful discharge of their duties as
6 teachers. 1854, c. 89, § 9.

SECT. 95. For the purpose of defraying the expense of the
2 teachers' conventions, there shall be annually appropriated the
3 sum of two thousand dollars, to be expended by the superin-
4 tendent; and he shall render to the governor and council an
5 annual account of his expenditure of said appropriation, to be
6 by them examined and audited. 1854, c. 89, § 10.

ARTICLE X.—*Special provisions, relating to the regulation and
endowment of schools, and affecting the government and
discipline of literary institutions.*

SECT. 96. All forfeitures and penalties for the breach of any
2 of the provisions of this chapter, shall be recovered by indict-
3 ment, before any court of competent jurisdiction; and it shall
4 be the duty of all grand jurors to make due presentment thereof
5 in all cases that shall come to their knowledge; and such penalty,
6 when recovered, shall in all instances, be paid into the treasury
7 of the town where the same was incurred, for the support of
8 schools therein, in addition to the amount required by law to be
9 raised; but the costs of the prosecution, when recovered, shall
10 be paid into the county treasury. 1850, c. 193, art. 10, § 1.

SECT. 97. If any town shall neglect for one year, so to appro-
2 priate and expend any fine or penalty, it shall forfeit a sum
3 equal to the said fine or penalty, to the use of any person who
4 may sue therefor, in an action of debt.

1850, c. 193, art. 10, § 2.

SECT. 98. The treasurer of state shall keep a separate account
2 of all moneys he may have received, or may hereafter receive,
3 from the sales of land which have been, or which may hereafter
4 be appropriated by law, for the support of the primary or com-
5 mon schools in this state, or from the notes taken therefor, and
6 also of any other moneys which may be appropriated for the
7 same purpose; and the same shall constitute a permanent school
8 fund. This fund may be put out on interest, in such manner
9 as the legislature shall determine. And a sum of money, which

10 shall be equal to six per centum of the whole amount of said
 11 permanent school fund, shall be annually appropriated to the
 12 support of common schools, and shall be annually distributed
 13 amongst the several cities, towns and plantations, according to
 14 the number of children therein, between the ages of four and
 15 twenty-one years. 1854, c. 104, § 6.

SECT. 99. All the sums of money which may be received by
 2 the state, for the tax on the several banks, shall be appropriated
 3 to the support of town or district schools.

1850, c. 193, art. 10, § 4.

SECT. 100. In case the returns from any city, town or planta-
 2 tion shall not be received at the office of the secretary of state
 3 in the month of April, he shall on the first day of May notify
 4 the committees of the delinquent cities, towns and plantations
 5 of such delinquency. And he shall annually ascertain, on the
 6 first day of June, the number of children between the ages of
 7 four and twenty-one years in the several cities, towns and
 8 plantations from which returns have been received, and furnish
 9 a list thereof to the state treasurer. 1853, c. 9, § 3, 4.

SECT. 101. The treasurer shall immediately after the first
 2 day of June, apportion to the several cities, towns and planta-
 3 tions, the state school funds for the year, from whatever source
 4 derived, according to the list furnished to him by the secretary
 5 of state. And in case any city, town or plantation shall not
 6 have made the returns as required by law, the number of scholars
 7 belonging to said city, town or plantation, taken as the basis of
 8 the next preceding apportionment, deducting all who have been
 9 set off to any other town, or incorporated into a new town within
 10 the year, and deducting also one tenth part of the remainder,
 11 shall be the basis of the new apportionment so far as regards
 12 said city, town or plantation. And immediately after making
 13 the apportionment, the treasurer shall notify each city, town
 14 and plantation of the amount of its proportion. And the pro-
 15 portion assigned to any city, town or plantation, which has not
 16 made returns for the year, shall not be paid till said returns
 17 are made to the secretary of state. 1853, c. 9, § 5, 6, 7, 8.

SECT. 102. The secretary of state, on or before the first day
 2 of October, annually, shall furnish to the superintending school

3 committees, the blank forms required by law to be used in
4 making school returns. 1850, c. 193, art. 10, § 7.

SECT. 103. The tenure of office of the president of each col-
2 lege in this state, shall be such that he shall be removable at
3 any time, at the pleasure of the trustees and overseers, whose
4 concurrence is necessary for an election to the same office.

1850, c. 193, art. 10, § 8.

SECT. 104. All fees paid by any person for any diploma, or
2 any medical degree, granted or conferred by any college in this
3 state, shall be paid into the treasury for the use of such college;
4 and no part thereof shall be received as a perquisite of office, by
5 any officer of the college. 1850, c. 193, art. 10, § 9.

SECT. 105. No innholder, confectioner or keeper of any shop,
2 or boarding-house, for the sale of drink or food, or any livery
3 stable keeper, for horse or carriage hire, shall give credit to any
4 under graduate or pupil, of any college or other institution in
5 this state, incorporated for the instruction of youth, without the
6 consent of the president, or such officer of such college or other
7 institution as may be authorized thereto, by the government
8 thereof, nor in violation of any rules and regulations thereof.

1850, c. 193, art. 10, § 10.

SECT. 106. No person shall be licensed by the selectmen of
2 any town, for any of the employments aforesaid, if it shall
3 appear that he has, within the year then last past, given credit
4 to any such under graduate or pupil, contrary to the provisions
5 of the preceding section. 1850, c. 193, art. 10, § 11.

SECT. 107. If any person shall give credit to any such under
2 graduate or pupil, contrary to the said provisions, he shall for-
3 feit a sum equal to the amount so credited, whether the same
4 shall have been paid or not; to be recovered by the treasurer of
5 such college or other institution, in an action of debt; one half
6 to the use of such college or institution, and the other half to
7 the use of the town where the same is established.

1850, c. 193, art. 10, § 12.

SECT. 108. If any person, whether he be a scholar or not,
2 shall enter any school-house or other place of instruction, during
3 or out of school hours, the teacher or any of the pupils being
4 therein, and shall willfully interrupt or disturb the teacher or

5 pupils by loud speaking, rude or indecent behavior, signs or
 6 gestures; or if any person shall willfully interrupt a school by
 7 prowling about the building, by making noises, or by throwing
 8 missiles at the school-house, or in any wise disturbing the
 9 school, the person so offending shall pay a fine of not less than
 10 two, nor more than twenty dollars, to be recovered by complaint
 11 before any justice of the peace, or by indictment and conviction
 12 in the supreme judicial court; and whenever a conviction for a
 13 violation of this chapter is had before any justice of the peace
 14 or any judge of any municipal or police court, one half of the
 15 fine shall go to the complainant, and the other half to the state.

1850, c. 193, art. 10, § 13. 1855, c. 128.

SECT. 109. If any minor shall injure or aid in injuring any
 2 school-house or out buildings, or any utensils or appurtenances
 3 belonging to the same; or shall by marks, cuts or otherwise,
 4 deface the walls, benches, seats or other parts of said buildings,
 5 or shall injure or destroy any property belonging to any school
 6 district, said district by its agent or committee, may recover of
 7 the parent or guardian of such minor, in an action of debt, in
 8 any court competent to try the same, double the amount of
 9 damages occasioned by such minor.

1850, c. 193, art. 10, § 14.

SECT. 110. The provisions of law, shall apply as well to ex-
 2 cutions against any school district, as against towns.

1850, c. 193, art. 10, § 16.

Chapter 13.

PARISHES, MEETING-HOUSES, MINISTERIAL AND SCHOOL LANDS, AND
 FUNDS ARISING THEREFROM.

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2. Organization; name; declared a parish.
 3. Power to hold property and establish by-laws.
 4. Annual and other meetings. Officers.
 5. Powers of moderator.
 6. When meetings may be called.

- Sect.*
7. How meetings called, if assessors refuse.
 8. For what purposes parishes may raise money.
 9. How assessed on pews.
 10. Payment enforced by sale of pews.
 11. Owner may direct as to appropriation of his pew tax.
 12. Parishes may procure insurance on meeting-houses; in case of loss, insurance, how applied.
 13. Manner of admission to a parish.
 14. Membership of local parish, deriving funds from the state, and not deriving funds from the state.
 15. How to withdraw from a parish.
 16. Persons leaving parishes liable for moneys previously raised.
 17. No person compelled to belong to a parish.
 18. Territorial parishes not hereby dissolved.
 19. When a parish is set off from a town the remainder to constitute first parish.
 - 20, 21, 22. Grants and donations to pious uses, how vested.
 - 23, 24. Power to convey such lands.
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34. Owners may incorporate themselves for the purpose of repairing meeting-houses.
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42. Corporate rights and powers.
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49. Fee in school lands, how vested.
50. Selectmen, town clerk and treasurer to be trustees.
51. Trustees shall choose their officers annually.

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58. Incorporated trustees may transfer funds to selectmen, clerk and treasurer by consent of the town.

59. Trustees to account annually to the town.

60. If lands are vested in a parish the assessors, clerk and treasurer to be trustees.

61. First meeting of trustees, how called.

ARTICLE I.—*Parishes and Ministerial Lands.*

SECT. 1. Any persons, of the age of twenty-one years or more, 2 desirous of becoming an incorporated parish or religious society, 3 may apply to a justice of the peace of the county, in which a 4 majority of them reside, who shall issue his warrant to one of 5 them, directing him to notify the other applicants to meet at 6 some proper place, expressed in such warrant; and he shall give 7 notice of such meeting, seven days at least, before holding the 8 same, by posting a notification thereof on the outer door of the 9 meeting-house, or place of public worship, of such society, if 10 any there be, otherwise at such place as the justice may appoint.

R. S., c. 18, § 1.

SECT. 2. Such persons, so assembled, may choose a clerk 2 and other needful parish officers; and shall thereupon become, 3 and are hereby declared to be, a corporation and body politic; 4 and shall bear such name, as they shall assume, and have all 5 the powers incident to parishes and religious societies.

R. S., c. 18, § 2.

SECT. 3. Every parish shall have power to take, by gift or 2 purchase, any real or personal estate, until the clear annual 3 income thereof shall amount to three thousand dollars; and, at 4 pleasure, to sell and dispose of the same; and may establish by- 5 laws, not repugnant to the laws of the state. R. S., c. 18, § 3.

SECT. 4. The annual, or other meetings, of such parish, may 2 be called, by the assessors thereof, to be held at the time and 3 place in the town, where they are usually held; and they shall 4 be notified in the manner prescribed in the first section of this 5 chapter, or such other manner as may be agreed on by a vote

6 of the parish; and, being so assembled, the members may choose
 7 a clerk, who shall be sworn to the faithful discharge of the du-
 8 ties of his office, and also two or more assessors, a collector,
 9 treasurer, standing committee, and any other needful officers.

The assessors shall manage the prudential concerns of the par-
 11 ish, where no other persons are appointed for that purpose, and
 12 shall be duly sworn. R. S., c. 18, § 4.

SECT. 5. The moderator of any meeting shall have power to
 2 preserve order, and manage the business, and may administer
 3 the oath of office to the clerk and the assessors.

R. S., c. 18, § 5.

SECT. 6. When five members of any parish shall, in writing,
 2 request the assessors to call a meeting, or insert any particular
 3 article in the warrant for calling a parish meeting, it shall be
 4 their duty so to do. R. S., c. 18, § 6.

SECT. 7. When assessors unreasonably refuse to call a meet-
 2 ing of the parish, or insert an article requested, as stated in the
 3 preceding section, any justice of the peace in the county, on the
 4 written application of five or more members thereof, may issue
 5 his warrant to one of the applicants, who shall notify such meet-
 6 ing, in the manner prescribed in the first section, or the manner
 7 agreed on by vote, if any such exists. R. S., c. 18, § 7.

SECT. 8. Every parish may, at a legal meeting, vote and
 2 grant such sums of money, as may be necessary, for the support
 3 of the public ministry of religion, and for building, repairing or
 4 removing houses of public worship, and other necessary parish
 5 charges; and such sums may be assessed and collected by the
 6 same rules as state taxes. R. S., c. 18, § 8.

SECT. 9. Where any house of worship belongs to the mem-
 2 bers of the parish, or where the same and the fee of the land,
 3 on which it stands, is vested in trustees, for the use of a parish,
 4 such parish may, if they see cause, assess any moneys voted as
 5 aforesaid, wholly, or in part, on the pews or seats of individual
 6 owners, whether members of such parish or religious society, or
 7 not; and they may be present and vote in granting all sums to
 8 be assessed on such pews or seats. R. S., c. 18, § 9.

SECT. 10. When taxes, so assessed on pews and seats, shall
 2 remain unpaid for six months after the assessment thereof, the

3 treasurer shall sell the same at auction, first posting notice of
 4 such intended sale at the principal outer door of such house of
 5 worship, three weeks before the time of sale, stating the num-
 6 bers, if any, of the pews or seats, and the amount of the tax due
 7 on each: and shall execute and deliver to the purchaser of any
 8 pew or seat, a deed thereof; paying over to the owner the over-
 9 plus, if any, of the money arising from the sale, after deducting
 10 the amount of tax and the incidental charges.

R. S., c. 18, § 10.

SECT. 11. All moneys paid by any person for the support
 2 of public worship, by a tax on any pew or seat, as above men-
 3 tioned, shall be paid over to such teacher of his own religious
 4 sect, as he may designate, he leaving a written notice of such
 5 designation with the clerk of such parish, on or before the an-
 6 nual meeting, unless such owner shall use such pew or seat
 7 himself, or by his family, or other person occupying it under
 8 him; and it shall be sufficient, that such teacher be ordained or
 9 qualified according to the usages of his particular sect or com-
 10 munion.

R. S., c. 18, § 11.

SECT. 12. Any parish in the actual occupancy of any church,
 2 meeting-house or other building, used for religious purposes,
 3 may cause such church, meeting-house or other building to be
 4 insured against loss by fire, and such occupancy shall be deemed
 5 in law, a sufficient interest therein to authorise such insurance.
 6 And in case of loss by fire the company insuring under this
 7 provision, shall not be permitted to deny the occupancy by the
 8 parish effecting the insurance, its legal existence, or its right to
 9 maintain an action upon the policy as a parish. And any
 10 amount received by any parish on any such policy, shall be held
 11 by such parish in trust, for the purpose of repairing or restoring
 12 the building, and shall be applied accordingly.

1850, c. 201, § 1, 2, 3.

SECT. 13. Any person may become a member of any parish,
 2 or religious society, now existing, or hereafter created, by being
 3 accepted, as such, by the parish, of which he wishes to become
 4 a member, at a legal meeting of the same. R. S., c. 18, § 12.

SECT. 14. Any person becoming of age and residing within
 2 the limits of any local parish holding funds, derived from the

3 state, or Commonwealth of Massachusetts, or removing into such
 4 parish after being of age, shall be deemed a member thereof,
 5 until he voluntarily dissolves the connexion. And any person
 6 becoming of age and residing within the limits of any local
 7 parish, or moving into the same, such parish not deriving funds
 8 from the state, may become a member thereof, by giving notice,
 9 in writing, to the clerk thereof, of his intention so to do, within
 10 one year after his becoming of age or removal thereto.

R. S., c. 18, § 13, 18.

SECT. 15. Any person may dissolve his connexion with a
 2 parish or religious society, by leaving, with the clerk thereof, a
 3 certificate of his intention so to do; and he shall thereby cease
 4 to be a member of the society, with whose clerk it is left, or
 5 liable to pay any part of any future expenses, which may be
 6 incurred by such parish or society. R. S., c. 18, § 14.

SECT. 16. Every person ceasing to be a member of any parish,
 2 except by removal from the limits of a local parish, shall be
 3 liable to be taxed for all moneys raised by such parish, before
 4 he ceased to be a member of it. R. S., c. 18, § 15.

SECT. 17. No person shall be compelled to join, or be classed
 2 with, any religious society or parish, without his consent.

R. S., c. 18, § 16.

SECT. 18. No territorial parish shall be dissolved by the
 2 provisions of this chapter. R. S., c. 18, § 17.

SECT. 19. When one or more parishes shall be set off from a
 2 town, or incorporated, within its limits, in the manner pre-
 3 scribed in this chapter, the remaining part of the town shall
 4 constitute the first parish. R. S., c. 18, § 19.

SECT. 20. The deacons of all protestant churches, not be-
 2 ing episcopal churches, and the church wardens of episcopal
 3 churches, are, and shall be deemed, so far bodies corporate, as
 4 to take in succession all grants and donations, whether real or
 5 personal, made either to their several churches, or to them and
 6 their successors. R. S., c. 18, § 20.

SECT. 21. Whenever the ministers, elders or vestry shall, in
 2 such grants or donations, have been joined with such deacons,
 3 or church wardens, as donees or grantees in succession, in such
 4 cases, such officers and their successors together with the deacons

5 or church wardens, shall be deemed the corporation for such
6 purposes. R. S., c. 18, § 21.

SECT. 22. The minister or ministers of every parish, or re-
2 ligious society, of every denomination, and the deacons, elders,
3 trustees, stewards and other presiding officers of every religious
4 society, or church, having, by its usages, no settled minister,
5 shall be capable of taking in succession any estate, granted to
6 the minister and his successors, or for the use of the ministry,
7 or the poor of the church, and of prosecuting and defending all
8 suits respecting the same. R. S., c. 18, § 22.

SECT. 23. No alienation of any such estate, by any minister,
2 shall be valid any longer, than during such alienor's continuing
3 in the ministry. R. S., c. 18, § 23.

SECT. 24. No alienation of such estate, by such elders, dea-
2 cons, trustees, stewards or presiding officers, shall be valid any
3 longer, than the continuance in office of such alienors, if made,
4 without consent of the church; or, if made, by church wardens,
5 without the consent of the vestry. R. S., c. 18, § 24.

SECT. 25. No minister, deacons, elders, trustees, stewards or
2 presiding officers shall be deemed capable of taking any estate,
3 granted as aforesaid, so long as the clear annual income of prior
4 grants to such officers, or to the church, shall be equal to the
5 sum of three thousand dollars. R. S., c. 18, § 25.

SECT. 26. The records of every parish shall be open to the
2 inspection of every member, and to the clerk of every other
3 parish; and each clerk shall furnish attested copies of records,
4 on request, for a reasonable compensation. R. S., c. 18, § 26.

SECT. 27. When any parish or religious society, at any legal
2 meeting, shall vote, for any legal purpose, any sum of money,
3 and assess the same on the polls and estates of the members
4 thereof, such parish or society may appoint their treasurer, a
5 collector of taxes, with like power as is provided for a treasurer
6 of a town, who has been appointed a collector of said town, ac-
7 cording to the provisions of law. R. S., c. 18, § 27.

SECT. 28. Such parish or society may, by vote, authorize
2 similar abatements upon taxes to be paid to such collector and
3 treasurer, or his deputy, within such periods as the parish or
4 society may, in legal meeting, establish; and the treasurer shall

5 give like public notice of the parish votes; and such taxes, as
6 shall not be paid within the periods above mentioned, or others
7 agreed upon, shall be collected by the treasurer; in the same
8 way as town taxes in such circumstances. R. S., c. 18, § 28.

SECT. 29. The assessors, who shall regulate the collection of
2 their taxes agreeably to the provisions of this chapter, shall de-
3 posit the same in the hands of the treasurer and collector, for
4 collection, with a warrant for that purpose, after he shall have
5 been duly qualified. R. S., c. 18, § 29.

SECT. 30. The overseers of each monthly meeting of the peo-
2 ple, called quakers, shall be deemed so far a body corporate, as
3 to take and hold, in succession, all grants and donations of
4 estate, real, personal or mixed, made, or hereafter to be made,
5 to their respective monthly meetings, or to their preparative
6 meetings constituting the same, or to either of them, to said
7 overseers, or to the use of any of said meetings, or to the poor
8 thereof; and to aliene, or manage the same, according to the
9 terms and conditions on which the same may have been made;
10 and in the name of said overseers, for the time being, to prose-
11 cute or sue for any right, that may have vested in said over-
12 seers, the poor of said meetings, or in any of said meetings, in
13 consequence of such grant or donation. R. S., c. 18, § 30.

SECT. 31. Such overseers may also take and hold, as a cor-
2 poration, in succession, all grants and donations of real estate,
3 situated within the territorial limits of their respective monthly
4 meetings, and all grants and donations of personal estate made
5 by any person, dwelling within such bounds, made or hereafter
6 to be made, to any of the quarterly meetings of said quakers, to
7 said overseers for their use, or to the use of any of said quarterly
8 meetings, or to the poor thereof; and to aliene and manage the
9 same, according to the conditions on which the same may have
10 been made; and sue for any right that may have vested in any of
11 the before named grantees or donees; *provided*, that the income
12 thereof, to any one of such meetings, for the uses aforesaid, shall
13 not exceed five thousand dollars per annum. R. S., c. 18, § 31.

SECT. 32. The powers, granted in the two preceding sections,
2 may be enlarged, restrained or repealed, at the pleasure of the
3 legislature. R. S., c. 18, § 32.

ARTICLE II.—*Meeting-houses.*

SECT. 33. Any number of individuals may incorporate themselves, for the purpose of erecting a meeting-house, in the same manner, and with the same effect, as parishes may by law incorporate themselves; and may choose all officers, and do all those acts, which a parish may do, in the exercise of its lawful authority. R. S., c. 19, § 1.

SECT. 34. The owners of any meeting-house or a majority of owners in interest in the same, not constituting a parish, shall have power to incorporate themselves for the purpose of repairing, enlarging and removing the same, in the same manner as parishes may incorporate themselves; and may choose officers, raise and assess taxes for the sole purposes aforesaid, and may do all those things which a parish can, in virtue of the authority legally vested in it. 1846, c. 206.

SECT. 35. The owners of pews, or the proprietors of, or in any meeting-house in this state, are hereby empowered to repair, re-model, sell and convey their house and the lot of land on which it stands, or the house without the land, or remove or rebuild the same, provided that a majority of the owners or proprietors of such house and land present at any legal meeting called for that purpose, shall authorize the same. The warrant calling such meeting shall be posted upon said meeting-house in the usual place of posting notices, and in one other public place in the precinct where said meeting-house is situated, at least fourteen days before the day of meeting, signed by at least five of the said owners or proprietors, and shall set forth distinctly the object of said meeting; or notice may be given by publishing said warrant in a newspaper published in the county where said house is situated, at least fourteen days before the day of meeting. 1855, c. 172, § 1.

SECT. 36. Before any alteration or sale of any meeting-house shall be made under the foregoing section, an appraisal of the relative value of the pews in said house shall be made by three discreet persons under oath, to be elected by ballot at any legal meeting of said owners or proprietors; and in case a sale of said house and land shall be made, and it may be made at private or public sale, as shall be determined at the meeting aforesaid, the

8 proceeds of said sale shall be applied, first, to pay the expenses
9 of said sale, second, to the payment of all debts and just claims
10 against said property; and the balance which may remain shall
11 be paid to the pew owners or proprietors of said property, in
12 proportion to their respective interests as determined by the
13 appraisal aforesaid. And if the majority of such owners or
14 proprietors shall determine to alter or rebuild their said meeting-
15 house, the said appraisers shall, after the work of altering or
16 rebuilding shall have been completed, assign to the pew holders
17 in the former house, pews to conform as near as practicable to
18 those previously held by them; and the new pews may be sold
19 under the direction of any legal meeting, towards defraying the
20 expenses of the repairs and alterations, or be otherwise disposed
21 of, as said proprietors or pew owners may determine at a legal
22 meeting. The owners or proprietors aforesaid may, at any legal
23 meeting as aforesaid, choose officers, raise and assess taxes on
24 the pews in said houses, and collect the same, for the sole pur-
25 pose of making such repairs and alterations in their said houses,
26 and may do all those things which a parish can, in virtue of the
27 authority legally vested therein. And the proprietors or owners,
28 at their meeting aforesaid, shall appoint some suitable agent or
29 agents to make the sale and conveyance as aforesaid, or to make
30 the repairs and alterations authorized by a legal meeting, and
31 they may also appoint a treasurer or trustees to receive and
32 distribute the proceeds of said sale in manner before provided.

1855, c. 172, § 2.

SECT. 37. If any owners or proprietors as aforesaid are not
2 able to call a legal meeting, by reason of lapse of time or failure
3 of organization, or any other cause, an application may be made
4 by any five or more of such owners or proprietors, to a justice
5 of the peace, to issue his warrant appointing a time and place
6 for the owners or proprietors of any meeting-house, to meet and
7 organize themselves for the purpose of making such sale, altera-
8 tion, repairs or removal, which warrant shall be served upon
9 the owners and proprietors personally, by a written or printed
10 copy of said application, and warrant, or by posting the same
11 on said meeting-house, and at one other conspicuous place in
12 the precinct where said house is situated, at least fourteen days

13 before the time appointed for such meeting. And said applica-
14 tion shall set forth specifically the objects of such meeting.
15 And the meeting thus called shall be empowered to adopt such
16 measures in regard to the objects so set forth, and appoint such
17 officers to carry them into effect, as a majority of said owners
18 or proprietors may at such meeting determine.

1855, c. 172, § 3.

SECT. 38. If the owners or proprietors of any meeting-house,
2 which the major part owners shall by vote at a legal meeting
3 determine to repair, re-model, or re-build, shall dissent from
4 the proceedings of such meeting, and shall decline to take any
5 interest in the house which may be so repaired, re-modeled or
6 re-built, they shall be entitled to demand and receive of those
7 who may elect to make such alterations, the appraised value of
8 their interest in said house and land, their proportion of the
9 debts of said owners or proprietors being first deducted, to be
10 recovered by an action for money had and received, against the
11 owners who may so elect to make such alterations and repairs,
12 by any person entitled to receive said proceeds. But such
13 action shall not be commenced until thirty days after such de-
14 mand, nor after the expiration of one year after notice shall
15 have been given by an advertisement posted on said meeting-
16 house door, and one other conspicuous place in the precinct
17 where it is situated, setting forth the names of the persons to
18 whom the money is to be paid, with the amount to each and
19 time limited for the payment, three weeks successively. And
20 if the said sums of money shall not be demanded within said
21 time, they shall be considered as forfeited to the uses of the
22 owners or proprietors aforesaid, who have made such repairs for
23 parish purposes.

1855, c. 172, § 4.

SECT. 39. The owners of any meeting-house, or building
2 erected for public worship, together with the owners of the pews
3 therein, may be created bodies corporate, in the manner, and
4 for the purposes hereinafter provided. R. S., c. 19, § 4.

SECT. 40. Whenever a majority of the owners of any such
2 building shall make application, to a justice of the peace of the
3 same county, stating their desire to become a body corporate,
4 he shall issue his warrant to one of the applicants, directing him

5 to notify the owners to meet at the time and place, and for the
6 purposes, named in said warrant, by posting up a certified copy
7 of the same, in two public places in the town, where the building
8 is situate; one of which notices shall be posted on the principal
9 outer door of such building. R. S., c. 19, § 5.

SECT. 41. The owners of the building, when assembled, may
2 choose a moderator and clerk, who shall perform the duties
3 usually incumbent on such officers; and thereupon said owners
4 shall be, and are declared to be, a body corporate, and shall be
5 known by such name, as they shall adopt, and may agree on
6 the mode of calling future meetings. R. S., c. 19, § 6.

SECT. 42. Such corporation, so created, may, by a vote of a
2 majority of its members, use and control any meeting-house or
3 building, erected for public worship, of which they may be part
4 or sole owners, in such manner as they please; *provided*, that
5 nothing, in the three preceding sections, shall be construed to
6 affect the rights of owners of such houses of worship, as have
7 been or shall be built by different religious denominations.

R. S., c. 19, § 7.

SECT. 43. When any house of public worship shall be owned
2 by persons of different denominations, or by any organized
3 society, in case such society or its members own pews to the
4 number of five, any one or more of such owners being of the
5 minority, and owning not less than ten pews, may apply to a
6 justice of the peace and quorum, to obtain a division of the time
7 of occupying the house; and the justice shall call a meeting of
8 the owners of the house, by posting up, in a public place, in or
9 about the house, a notice thirty days at least before the meet-
10 ing; which shall state the time, place and object of the meeting.

R. S., c. 19, § 8. 1845, c. 145.

SECT. 44. At such meeting, the owners who may not be
2 applicants, or, if they refuse or neglect, the justice who called
3 the meeting, may designate another justice of the peace of the
4 county, and the two justices may appoint a third person, who
5 shall be disinterested, and not an inhabitant of the town in
6 which the house is located, or belonging to the denomination of
7 either of the parties interested; and such justices and third
8 person shall constitute a board, before which the several owners

9 may exhibit the amount they respectively own in the house;
 10 and the minority, owning at least ten pews, and wishing to
 11 occupy the house some part of the time, shall have that part
 12 allotted to them, as nearly as may be, in proportion to the
 13 amount owned in the house by the minority; and the board shall
 14 designate, precisely, which weeks in each year the minority
 15 shall occupy the house, if they see fit so to do; if not, the
 16 majority may occupy the house.

1842, c. 31, § 2. 1845, c. 164.

SECT. 45. The said board shall appraise the value of the
 2 proportion of the house belonging to the minority, allowing no
 3 greater sum for any pew than was actually paid for it by the
 4 owner; and they shall make a record of their proceedings, and
 5 within ten days cause it to be transcribed into the records of
 6 the town or plantation, where the house is situated.

R. S., c. 19, § 10.

SECT. 46. All reasonable expenses of the board shall be paid
 2 by the person or persons, at whose request the division was
 3 made; but the above provisions shall not affect any agreement
 4 now in force, as to the mode of occupying a house of public
 5 worship.

R. S., c. 19, § 11.

SECT. 47. The minority may occupy the house for such part
 2 of the time as has been allotted to them, unless the majority
 3 should choose to purchase the interest of the minority; and in
 4 that case the majority shall have a right so to buy, by paying
 5 the minority the sum at which their portion of the house was
 6 appraised by the board; but if the minority shall prefer not to
 7 sell, and decline so to do, in that case they shall not avail
 8 themselves of any of the provisions of this chapter.

R. S., c. 19, § 12.

ARTICLE III.—*Ministerial and School Lands, and Funds
 arising therefrom.*

SECT. 48. Where lands have been granted, or reserved, for
 2 the use of the ministry, or first settled minister, in any town in
 3 this state, and where the fee in such lands has not vested in
 4 some particular parish within such town, or in some individual,
 5 the fee and estate in such lands shall be, and hereby is declared

6 to be, vested in the inhabitants of such town, and not in any
7 particular parish therein. R. S., c. 20, § 1.

SECT. 49. Where lands have been granted or reserved for
2 the use of schools in any town within this state, the fee in which
3 lands has not already vested, the same shall be and hereby is
4 declared to be vested in the inhabitants of such town, for the
5 support and use of schools therein, forever. R. S., c. 20, § 2.

SECT. 50. The selectmen, town clerk and treasurer, for the
2 time being, of each town in the state, wherein no other trustees
3 for the same purpose are already lawfully appointed, shall be a
4 body corporate, and trustees of the ministerial and school funds
5 in such town forever, with the usual powers granted to similar
6 corporations. R. S., c. 20, § 3.

SECT. 51. The trustees shall elect, annually, a president,
2 clerk and treasurer; and the treasurer shall give bond, with
3 sufficient sureties in the opinion of the trustees, for the faithful
4 discharge of his duty; and the clerk shall be duly sworn.

R. S., c. 20, § 4.

SECT. 52. Such trustees shall have power to sell and convey
2 all the ministerial and school lands, belonging to their respective
3 towns, and lying within the same, except such parts as may
4 have already vested, as mentioned in the first section; and any
5 deed of such land, so sold, duly executed by the treasurer, by
6 order of the trustees, shall pass the estate. R. S., c. 20, § 5.

SECT. 53. The trustees, as soon as may be, shall place the
2 proceeds of the sale at interest, secured by mortgage of real
3 estate of twice the amount of the principal sum, or by bond or
4 note, with sufficient sureties, or invest the same in bank stock
5 or public securities. R. S., c. 20, § 6.

SECT. 54. Such trustees may take and hold any real or per-
2 sonal estate, by gift, grant, or otherwise, for the use of the
3 ministry in their respective towns; the annual income of which
4 shall not exceed one thousand dollars. R. S., c. 20, § 8.

SECT. 55. Such trustees may so take and hold any such
2 property for the use of schools in their several towns, the annual
3 income of which shall not exceed the sums which their respective
4 towns are by law bound to raise for the use of schools therein.

R. S., c. 20, § 9.

SECT. 56. The annual income of any fund, which has arisen
 2 or may arise from the proceeds of the sale of lands, granted or
 3 reserved as aforesaid, whether for the use of the ministry, or of
 4 the first settled minister, or for the use of schools in any town
 5 in this state, and which fund, or the land, from which it may
 6 arise, has not become vested in some particular parish or indi-
 7 vidual, and also the income arising from rents and profits of any
 8 real or personal estate, taken and held as aforesaid, from leases
 9 of the same, shall be annually applied to the support of the
 10 primary schools in such town. R. S., c. 20, § 10.

SECT. 57. Such income shall be expended in the same man-
 2 ner, as other moneys raised for the support of schools, are, by
 3 law, required to be expended; but nothing in this chapter shall
 4 be construed to exempt any town from raising, for the use of
 5 schools, the same amount, that such town, by law, is required
 6 to raise, over and above the income of the before mentioned
 7 fund. R. S., c. 20, § 11.

SECT. 58. The trustees of any ministerial or school fund in
 2 this state, who were incorporated by the legislature of Massa-
 3 chusetts, may, by consent of the town, for whose use the fund
 4 was established, transfer the same to the selectmen, clerk and
 5 treasurer of such town; and those officers are hereby made, ex-
 6 officio, trustees of the same; and the income thereof shall be
 7 annually applied by them to the support of primary schools in
 8 such town; to be expended in the same manner, and subject to
 9 the same provisions, as are contained in the preceding section.

1842, c. 31, § 3. R. S., c. 20, § 13.

SECT. 59. At each annual meeting of the several towns, the
 2 respective trustees shall exhibit an account of their proceedings,
 3 and a statement of the funds, receipts and expenditures, and of
 4 the application thereof to the uses required. R. S., c. 20, § 13.

SECT. 60. In all cases, where such lands have become vested
 2 in any parish, the assessors, clerk and treasurer, for the time
 3 being, where no other trustees for the same purpose are already
 4 appointed, are hereby constituted a body corporate, and trustees
 5 of the ministerial fund in such parish forever, with like powers,
 6 and under like liabilities, as selectmen, town clerk and treasurer;
 7 and shall pay the annual income and profits of such lands, and

8 interest on the proceeds of any sale of the same, to the persons
9 and uses specified in the respective grants and reservations,
10 under which such lands have become so vested; and shall, at
11 each annual meeting for choice of parish officers, exhibit an
12 account of their proceedings, and a statement of funds, receipts
13 and expenditures.

R. S., c. 20, § 14. 1841, c. 1, § 5. Act of amendment.

SECT. 61. The first meeting of the trustees, constituted by
2 the fiftieth and sixtieth sections of this chapter, in any year,
3 may be called by a personal notice given by any one of said
4 trustees to all the other trustees, of the time and place of meet-
5 ing, seven days at least prior to said meeting.

R. S., c. 20, § 15. 1841, c. 1, § 5. Act of amendment.

Chapter 14.

THE PRACTICE OF PHYSIC AND SURGERY.

SECT. 1. No person, excepting as provided in the following
2 section, shall be entitled to recover at law any compensation for
3 medical or surgical services, by him alleged to have been per-
4 formed, unless previously to such service, he have obtained from
5 the selectmen of the town where he resided, or shall reside at
6 the time of the performance of such service, a certificate, that it
7 has been satisfactorily proved to them that such person is of
8 good moral character. R. S., c. 22, § 1.

SECT. 2. The restriction in the foregoing section shall not
2 apply to any physician or surgeon, who had commenced practice
3 previously to the sixteenth day of February, in the year eighteen
4 hundred and thirty-one; nor to any physician or surgeon who
5 has received, or may hereafter receive a medical degree at some
6 public institution, within the United States, where such degrees
7 are usually conferred, or may have been licensed by the censors
8 of the Maine Medical Society. R. S., c. 22, § 2.

Chapter 15.

PREVENTION OF CONTAGIOUS SICKNESS.

- Sect. 1.* Precautions against infected persons.
2. Precautions against persons arriving from infected places.
 3. Restrictions on such persons; may be removed if refractory.
 4. Penalty if they return.
 5. Precautions authorized in border towns.
 6. Process for removal or separate accommodation of infected persons.
 - 7, 8. Process for securing infected articles.
 9. Powers of officers in executing such process.
 10. Expenses, how paid.
 11. Compensation for men or property impressed.
 12. Adjournment of courts because of danger from infection.
 13. Removal of infected prisoners from places of confinement.
 14. Order for removal, how returned. Such removal not an escape.
 15. Health committee, how chosen; their duties.
 16. If no committee chosen, selectmen to perform the duties.
 17. May order removal of private nuisances; proceedings thereon.
 18. Masters, &c., of vessels may be examined on oath in certain cases.
 19. Vessels with infected persons to anchor at a distance from towns.
 20. Penalty for violation of this provision.
 21. Selectmen may establish quarantine regulations.
 22. Penalty from breach thereof.
 23. Duty of pilots to give notice thereof.
 24. Punishment for violation or evasion of quarantine, after notice.
 25. Selectmen to furnish signals.
 26. Restriction of persons visiting vessels at quarantine.
 27. Health committee may exercise authority of selectmen, relating to quarantine.
 28. Quarantine expenses, how paid.
 29. Hospitals may be established.
 30. Restrictions as to location thereof.
 31. Restrictions on inoculation with the small pox.
 32. Physicians and others liable to hospital regulations.
 33. Hospitals to be provided on breaking out of infectious diseases; regulations.
 34. Precautions to prevent the spread of such diseases.
 35. Penalty for violation of hospital regulations by persons subject thereto.
 36. Householders and physicians to give notice of infectious diseases under their care.
 37. Forfeitures, how recovered and appropriated.
 38. Towns may choose a board of health; their powers and duties.
 39. Plantations to have the same powers as towns.
 40. Vaccination may be at the expense of towns and plantations.

SECT. 1. When any person coming from abroad, or residing
 2 in any town, shall be infected, or shall have been recently
 3 infected, with any disease or sickness, dangerous to the public
 4 health, the selectmen of the town where such person may be,
 5 shall make provision, in the manner they shall judge best, for

6 the safety of the inhabitants, by removing such person to a
7 separate house, if it can be done without great danger to his
8 health, and by providing nurses and other assistance and neces-
9 saries; which shall be at the charge of the person himself, his
10 parent or master, if able, otherwise at the charge of the town to
11 which he belongs. R. S., c. 21, § 1.

SECT. 2. When any infectious or malignant distemper is
2 known to exist in any place out of the state, the selectmen of
3 any town in the state may, if they see cause, and by giving
4 public notice in such town, in such mode as they may find con-
5 venient, require all persons coming from such place out of the
6 state, to inform one of the selectmen, or the clerk of such town,
7 of their arrival, and from what place; and any such person,
8 having actual notice of such requirement, who shall not, within
9 two hours after his arrival and actual notice, as aforesaid, give
10 such information, shall forfeit one hundred dollars, to the use
11 of the town. R. S., c. 21, § 2.

SECT. 3. Any person who is required to give notice to one
2 of the selectmen, or the clerk of any town, as provided in the
3 preceding section, may be prohibited by said selectmen, from
4 going to any part of such town, where they may judge it unsafe
5 for the inhabitants, for him to go. If he shall not choose to
6 comply with such prohibition, it shall be his duty, unless dis-
7 abled by sickness, forthwith to depart from the state, in such
8 manner and by such road, as the said selectmen shall direct;
9 and in case of neglect or refusal, any justice of the peace in the
10 county, on complaint of either of such selectmen, may by his
11 warrant to a proper officer, or other person named in said war-
12 rant, cause such person to be removed out of the state.

R. S., c. 21, § 3.

SECT. 4. Any person removed by warrant, as aforesaid, who,
2 during the prevalence of such distemper in the place where he
3 resides, shall presume to return into any town in this state,
4 without the license of the selectmen thereof, shall forfeit not
5 exceeding four hundred dollars. R. S., c. 21, § 4.

SECT. 5. The selectmen of any town near to, or bordering
2 upon any adjoining state or province, may appoint, by writing
3 under their hands, suitable persons to attend at any places, by

4 which travelers may pass into such town, from infected places
5 in such states or provinces; and the persons so appointed may
6 examine such passengers as they may suspect of bringing with
7 them any infection which may be dangerous to the public health,
8 and, if need be, may restrain them from traveling, until licensed
9 thereto, by a justice of the peace within such county, or one of
10 the aforesaid selectmen; and any passenger, coming from such
11 infected place, who shall without license as aforesaid, travel
12 within this state, unless it be to return by the most direct way
13 to the state or province whence he came, after he shall have
14 been cautioned to depart, by the persons appointed as aforesaid,
15 shall forfeit a sum not exceeding one hundred dollars.

R. S., c. 21, § 5.

SECT. 6. Any two justices of the peace may, if need be,
2 make out a warrant, directed to the sheriff of the county, or his
3 deputy, or to any constable, requiring them, under the direction
4 of the selectmen of the town where any person infected with
5 contagious sickness may be, to remove such person; or to impress
6 and take up convenient houses, lodging, nurses, attendants and
7 other necessaries for the accommodation, safety and relief of the
8 sick.

R. S., c. 21, § 6.

SECT. 7. Whenever, on the application of the selectmen of
2 any town, it shall be made to appear to any justice of the peace,
3 that there is just cause to suspect, that any baggage, clothing
4 or goods of any kind, found within such town, are infected with
5 any malignant contagious distemper, such justice of the peace
6 shall, by warrant directed to the sheriff or his deputy, or to any
7 constable, require him to impress so many men, as said justice
8 shall judge necessary, to secure such infected articles, and to
9 post said men as a guard over the house or place where such
10 articles shall be lodged; which guard shall take effectual care
11 to prevent any persons removing or coming near to such articles,
12 until due inquiry be made into the circumstances thereof.

R. S., c. 21, § 7.

SECT. 8. The said justice may also, by the same warrant, if
2 it shall appear to him necessary, require the said officers under
3 the direction of the said selectmen, to impress and take up

4 convenient houses or stores for the safe keeping of such infected
5 articles, and the same to cause to be removed to such houses or
6 stores, or otherwise detained, until, in the opinion of said select-
7 men, they shall be freed from infection. R. S., c. 21, § 8.

SECT. 9. Said officers, in the execution of such warrant, shall,
2 if need be, break open any house, shop or other place mentioned
3 in said warrant, where infected articles shall be; and they may
4 require such aid as shall be necessary to effect the execution of
5 the warrant; and all persons shall, at the command of either of
6 said officers, under a penalty of not exceeding ten dollars, assist
7 in the execution of the warrant. R. S., c. 21, § 9.

SECT. 10. The charges of securing such infected articles, and
2 of transporting and purifying the same, shall be paid by the
3 owners thereof, at such rates and prices as shall be determined
4 by the selectmen. R. S., c. 21, § 10.

SECT. 11. Whenever the sheriff, or other officer, shall impress
2 or take up any houses, stores, lodging, or other necessaries, or
3 shall impress any man, as is provided in this chapter, the several
4 parties interested shall be entitled to a just compensation there-
5 for, to be paid by the town in which such persons, or property,
6 shall have been so impressed. R. S., c. 21, § 11.

SECT. 12. Whenever any malignant infectious distemper shall
2 prevail in any of the towns, wherein the supreme judicial court
3 or court of county commissioners are to be holden, at the time
4 prescribed by law, or by their own adjournment, the justices of
5 the said courts, respectively, are hereby empowered to adjourn
6 and hold said courts in any town in said county, by proclama-
7 tion to be made in such public manner as they shall judge best,
8 as near to their usual place of meeting, as, in their opinion,
9 safety will permit. R. S., c. 21, § 12.

SECT. 13. Whenever any person confined in any common
2 jail, house of correction, or work house, shall be attacked with
3 any disease, which the selectmen of the town, where such person
4 may be, by medical advice, shall consider dangerous to the safety
5 and health of the other prisoners, or of the inhabitants of the
6 town, the said selectmen shall, by their order in writing, direct
7 the removal of such person to some place of safety, there to be

8 securely kept and provided for until their further order; and if
9 such person shall recover from such disease, he shall be returned
10 to the said prison, or other place of confinement.

R. S., c. 21, § 13.

SECT. 14. If the person so removed shall have been com-
2 mitted by order of any court, or under any judicial process, the
3 order for his removal, or a copy thereof, attested by the select-
4 men, shall be returned by them, with the doings thereon, into
5 the office of the clerk of the court, from which the process was
6 issued for committing such prisoner; and no prisoner removed
7 as aforesaid, shall be considered as thereby having committed an
8 escape.

R. S., c. 21, § 14.

SECT. 15. Any town may, at its annual meeting, legally
2 warned for that purpose, choose a health committee, to consist
3 of not less than three, nor more than nine persons, or they may
4 choose one person to be a health officer. And it shall be the
5 duty of such health committee or health officer, at the expense
6 of their town, to remove all filth of any kind whatever, which
7 shall be found in any street, lane, wharf, dock, or other place
8 within the limits of their town, which, in their judgment, may
9 endanger the lives or health of any of the inhabitants thereof;
10 and also to require the owner or occupant to remove or discon-
11 tinue any drain or other source of filth, the removal of which
12 they may deem necessary.

R. S., c. 21, § 15.

SECT. 16. If any town shall at its annual meeting, omit to
2 choose a health committee or health officer, the selectmen of
3 such town shall be a health committee, and shall have all the
4 powers and perform all the duties prescribed and imposed by
5 the preceding section, for and upon the health committee or
6 health officer therein named.

1853, c. 4.

SECT. 17. Whenever any source of filth, or other cause of
2 sickness, shall be found on private property, the owner or occu-
3 pant thereof shall, within twenty-four hours after notice from
4 the said committee, or health officer, at his own expense,
5 proceed to remove or discontinue the same; and if such owner
6 or occupant shall neglect, after such notice so to do, or shall
7 unreasonably delay to complete such removal or discontinuance,
8 he shall forfeit a sum not exceeding one hundred dollars: and

9 the said health committee, or health officer, shall cause said
10 nuisance to be removed or discontinued; and all expenses,
11 incurred thereby, shall be repaid to the town by such owner or
12 occupant, or by such other person, as may have caused or
13 permitted the same. R. S., c. 21, § 16.

SECT. 18. If any master, seaman or passenger, belonging to
2 any vessel, on board of which any infection may then be, or may
3 have lately been, or suspected to have been, or which may have
4 come from any port, where any infectious distemper prevails,
5 that may endanger the public health, shall refuse to make
6 answer, on oath, to such questions as may be asked him, relating
7 to such infection or distemper, by the selectmen of the town to
8 which such vessel may come, which oath either of the selectmen
9 may administer, such master, seaman or passenger, so refusing,
10 shall forfeit a sum not exceeding two hundred dollars, or be
11 imprisoned for a term not exceeding six months; the prosecution
12 for which offense shall be by indictment. R. S., c. 21, § 17.

SECT. 19. Whenever any vessel shall arrive at any port,
2 within this state, having on board any person infected with any
3 malignant disease, the master, commander or pilot thereof, shall
4 bring such vessel to an anchor at some convenient place, below
5 the town of such port, at such distance as shall be safe for the
6 inhabitants thereof, and the persons on board other vessels, in
7 the same port; and no passenger, or other person belonging to,
8 nor any thing on board such vessel, shall be suffered to be
9 brought on shore, until the selectmen of the town shall give
10 their written permit for the same. R. S., c. 21, § 18.

SECT. 20. For the willful violation of the provisions of the
2 preceding section, the master or commander of such vessel shall
3 forfeit a sum not exceeding two hundred dollars, and the pilot
4 thereof shall forfeit a sum not exceeding fifty dollars, for each
5 offense. R. S., c. 21, § 19.

SECT. 21. Whenever the selectmen of any seaport town,
2 within this state, shall be of the opinion, that the safety of the
3 inhabitants thereof requires, that any vessel, which shall arrive
4 there from any port or place, should perform quarantine, they
5 may cause such vessel so to do, at such place, and under such
6 regulations, as they may judge expedient. R. S., c. 21, § 20.

SECT. 22. Any owner, master, supercargo, officer, seaman, passenger, consignee, or other person, who shall neglect or refuse to obey the orders and regulations of the said selectmen, respecting the said quarantine, shall forfeit a sum not exceeding five hundred dollars, or be imprisoned for a term not exceeding six months, or both, at the discretion of the court having cognizance of the offense, on prosecution by indictment. R. S., c. 21, § 21.

SECT. 23. Whenever the selectmen of any seaport town shall think it necessary to order all vessels, which shall arrive at such town from any particular port or ports, to perform quarantine, they shall give notice thereof to the pilots of their own port; and it shall be the duty of such pilots, to make known the said order to the master of all vessels which they shall board. Every such pilot who shall neglect to make known the said order, as aforesaid, or who shall, contrary thereto, pilot any vessel up to said seaport town, shall forfeit a sum not exceeding one hundred dollars. R. S., c. 21, § 22.

SECT. 24. When any master or commander of any vessel shall come up to any seaport town aforesaid, with his said vessel, after notice given to him by any person whatever, that a quarantine has been directed by the said selectmen, for all vessels coming from the port or place, from which said vessel sailed; or shall, by false declarations or otherwise, fraudulently attempt to elude the directions of the said selectmen; or shall land, or suffer to be landed from his vessel, any person, or apparel, bedding, goods or merchandise, without permission of the said selectmen, he shall incur the like penalty, or suffer the like imprisonment, or both, as is provided in the twenty-first section of this chapter, on like prosecution. R. S., c. 21, § 23.

SECT. 25. The selectmen of every seaport town, requiring vessels to perform quarantine, shall provide, at the expense of such town, a suitable number of red flags, of at least three yards in length; and the master of every vessel, ordered to perform quarantine, as aforesaid, shall cause one of said flags to be continually kept, during the term of his quarantine, at the head of the mainmast of his vessel; and no person shall go on board such vessel, during said term, unless by permission of said selectmen. R. S., c. 21, § 24.

SECT. 26. Any person, who shall go on board such vessel, 2 contrary to the provisions of the preceding section, shall be 3 thereafter considered and held liable to the same regulations 4 and restrictions, as those belonging to the said vessel; and shall 5 there be detained by force, if necessary, until duly discharged 6 by the said selectmen. R. S., c. 21, § 25.

SECT. 27. In every seaport town aforesaid, where a health 2 committee, or health officer, may have been legally chosen, as 3 provided in section fifteen of this chapter, such health officer 4 may perform all the duties, and exercise all the authority, which 5 the selectmen of such town may perform and exercise, in 6 requiring vessels to perform quarantine, under the provisions of 7 this chapter. R. S., c. 21, § 26.

SECT. 28. All expenses, incurred on account of any person, 2 vessel, or goods, under any quarantine regulations, shall be paid 3 by such person, or the owner of such vessel or goods, respect- 4 ively. R. S., c. 21, § 27.

SECT. 29. The inhabitants of any town may establish, within 2 the same town, one or more hospitals, for the reception of 3 persons, having the small pox or other disease, which may be 4 dangerous to the public health; or the selectmen of any town 5 may license any building in said town, as a hospital, at their 6 discretion; and such hospital, or licensed building, shall be 7 under the control of the selectmen. R. S., c. 21, § 28.

SECT. 30. No such hospital shall be established, or licensed, 2 within one hundred rods of any inhabited dwellinghouse, situated 3 in any adjoining town, without the consent of the selectmen of 4 such adjoining town. R. S., c. 21, § 29.

SECT. 31. If any person shall inoculate himself, or any other 2 person, or suffer himself to be inoculated, with the small pox, 3 unless at some hospital licensed or authorized by law, he shall, 4 for each offense, forfeit a sum not exceeding one hundred dol- 5 lars. R. S., c. 21, § 30.

SECT. 32. Whenever any hospital shall be so established or 2 licensed, the physician, the persons inoculated or sick therein, 3 the nurses, attendants, and all persons who shall approach or 4 come within the limits of the same, and all such furniture or

5 other articles as shall be used or brought there, shall be subject
6 to such regulations as may be made by the selectmen.

R. S., c. 21, § 31.

SECT. 33. Whenever the small pox, or any other disease
2 dangerous to the public health, shall break out in any town, the
3 selectmen thereof shall immediately provide such hospital or
4 place of reception for the sick and infected, as they shall judge
5 best for the accommodation and safety of the inhabitants; and
6 such hospitals and places of reception shall be subject to the
7 regulations of the selectmen, in the same manner, as is herein-
8 before provided for established hospitals; and the selectmen
9 shall cause such sick and infected persons to be removed to such
10 hospitals or places of reception, unless the condition of the sick
11 person be such as not to admit of removal without imminent
12 danger; in which case the house or place, where the sick shall
13 remain, shall be considered as an hospital for every purpose
14 before mentioned; and all persons residing in, or in any way
15 concerned with the same, shall be subject to the regulations of
16 the selectmen, as before provided. R. S., c. 21, § 32.

SECT. 34. Whenever any disease, dangerous to the public
2 health, is found to exist in any town, the selectmen shall use
3 all possible care to prevent the spreading of the infection; and to
4 give public notice of infected places to travelers, by displaying
5 red flags at proper distances, and by all other means, which in
6 their judgment shall be most effectual for the common safety.

R. S., c. 21, § 33.

SECT. 35. If any physician or other person, in any of the
2 hospitals or places of reception, before mentioned, or who shall
3 attend, approach or be concerned with the same, shall violate
4 any of the regulations lawfully made in relation thereto, either
5 with respect to himself, or his, or any other person's property,
6 the person so offending, shall, for each offense, forfeit a sum not
7 less than ten dollars, nor more than one hundred dollars.

R. S., c. 21, § 34.

SECT. 36. Whenever any householder, or any physician, shall
2 know, that any person under his care is taken sick of any
3 disease, dangerous to the public health, he shall immediately
4 give notice thereof to the selectmen of the town, in which the

5 diseased person may be; and if he shall neglect to give such
6 notice, he shall forfeit a sum not less than ten, nor more than
7 thirty dollars. R. S., c. 21, § 35.

SECT. 37. All forfeitures, mentioned in the preceding sections
2 of this chapter, except when otherwise expressly provided, shall
3 enure to the use of the town, where the offense shall have been
4 committed. R. S., c. 21, § 36.

SECT. 38. Every town, respecting which no provision is made
2 by any special law, for choosing a board of health, may at its
3 annual meeting, or at any other meeting, legally warned for the
4 purpose, at its election, choose a board of health to consist of
5 not less than three nor more than nine persons, and such board
6 of health shall have all the powers, discharge all the duties, and
7 be subject to the same penalties or restrictions, as in this chapter
8 are provided, in relation to the selectmen, health committee, or
9 health officer of any town, not electing to choose a board of
10 health as aforesaid; and the same penalties shall attach to such
11 persons as disobey their authority. R. S., c. 21 § 37.

SECT. 39. The provisions of this chapter in relation to towns,
2 are also extended to organized plantations, and the assessors of
3 such plantations, within the same, shall do the duties, and
4 have the same powers as the selectmen of the towns, and be
5 subject to the same restrictions and penalties; and the same
6 penalties shall attach to persons who may disobey their au-
7 thority. R. S., c. 21, § 38.

SECT. 40. Every town and organized plantation may at their
2 annual meeting, or at any meeting duly warned for the purpose,
3 provide for the inoculation of the inhabitants of such town or
4 plantation, with the cow pox, under the direction and control of
5 the health committee, health officer, or board of health; and
6 raise all necessary sums to defray the expense of such inocula-
7 tion, or such part thereof as they may think proper.

R. S., c. 21, § 39.

Chapter 16.

BURYING GROUNDS.

- Sect.* 1. Towns may purchase lands for burying grounds.
2. Proceedings to incorporate proprietors of burying grounds.
3. Mode of organization, as a corporation.
4. Grounds to be fenced within one year.
5. Towns and parishes to fence ancient burying grounds.
6. Penalty, if selectmen or other officers neglect their duty.
7. Grounds to be fenced, and unalienable and indivisible, except by unanimous consent. Description to be recorded.
8. Land appropriated by individual for burying ground, exempt from attachment, and unalienable.

SECT. 1. All towns and plantations may raise, and cause to
2 be assessed, money necessary for purchasing land for a burying
3 ground, and suitably fencing it for such purpose.

R. S., c. 23, § 1.

SECT. 2. Persons twenty-one years of age and upwards,
2 desirous of incorporating themselves as a body politic, for the
3 purpose of purchasing land for a burying ground; may apply to
4 a justice of the peace of the same county, who shall issue his
5 warrant to one of the applicants, directing him to notify them,
6 personally, to appear at the time and place designated in such
7 warrant; which notice shall be given seven days at least before
8 the day appointed.

R. S., c. 23, § 2.

SECT. 3. The persons, so assembled, may choose a clerk and
2 such other officers as they may think proper, and shall there-
3 upon be, and are declared to be, a corporation, and shall be
4 known by such name as they shall then assume, and may adopt
5 all necessary legal regulations, which may be deemed proper.

R. S., c. 23, § 3.

SECT. 4. Every such corporation shall, within one year after
2 its organization, make a substantial fence around the burying
3 ground, and keep the same constantly in repair, on penalty of
4 a sum not exceeding one hundred dollars, to be recovered on
5 indictment; which sum shall be laid out under the direction of the
6 selectmen in keeping the fences in repair. R. S., c. 23, § 4.

SECT. 5. Each town, parish or religious society, to which any
2 ancient or public burying yard belongs, shall keep a substantial
3 fence around it, in good repair, and by neglecting so to do, shall

4 forfeit a sum not exceeding one hundred dollars, to be recovered
5 and appropriated and applied in the same manner, as is pre-
6 scribed in the preceding section. R. S., c. 23, § 5.

SECT. 6. If the selectmen of any town, or the treasurer or
2 committee of any parish or religious society, shall neglect so to
3 apply the said fines when recovered under their respective au-
4 thority, they shall severally forfeit and pay the full amount of
5 such fine, to be recovered by action of debt, by any person who
6 shall sue for the same. R. S., c. 23, § 6.

SECT. 7. When any persons have appropriated, or may appro-
2 priate a piece of land for a burying ground, containing not more
3 than one-half an acre, the same shall be exempt from attach-
4 ment and execution, and unalienable and indivisible by the
5 owners; and shall be kept fenced and occupied as a burying
6 ground, unless all the owners consent to an alienation or division
7 thereof, and such proprietors shall cause a written description
8 thereof, under their hands, attested by two disinterested wit-
9 nesses, to be recorded in the registry of deeds in the county or
10 district where such land lies. R. S., c. 23, § 7.

SECT. 8. When any individual shall have appropriated a
2 piece of land for a family burying ground, containing not more
3 than one-fourth of an acre, and shall cause a description thereof
4 to be recorded in the registry of deeds of the county where said
5 land lies, and shall enclose the same with a substantial fence,
6 the same shall be exempt from attachment and levy on execu-
7 tion; and no subsequent deed or conveyance of said piece of
8 land shall be valid, so long as any person or persons are interred
9 therein; but the same shall remain to said individual and his
10 heirs as a burial place forever. 1855, c. 129.

Chapter 17.

DRAINS AND COMMON SEWERS.

Sect. 1. Penalty for laying drains in highways or streets without consent of municipal officers.

2. Municipal officers authorized to construct public drains.

3. Damages, how assessed and paid.

- Sect.* 4. Private drains, regulations, application for permits.
5. Amount to be paid for permit, how adjusted.
 6. Drains heretofore constructed, how maintained and managed.
 7. Penalty for connecting private drains with public, without permit.
 8. Penalty for violation of permit.
 9. Drains to be kept in repair. Penalty for neglect.
 10. Record of proceedings to be kept, and officers of towns to control prosecutions.
 11. Sum for permit to be paid in sixty days. Fees of arbitrators, how determined.
 12. Private drains, how repaired, in case of neglect of owners.
 13. Penalty for willfully or carelessly injuring public drains.

SECT. 1. If any person shall dig up the ground in any high-
 2 way or street in any town for the laying or repairing any drain
 3 or common sewer, without the consent of the municipal officers
 4 in writing, he shall forfeit for each offense four dollars to the use
 5 of the town. R. S., c. 24, § 1.

SECT. 2. The municipal officers of any town or city, shall
 2 have authority to construct public drains or sewers, through,
 3 along, or across any public street, highway or town way in their
 4 own town, the same to be constructed substantially of brick,
 5 stone, or other materials as said officers shall permit; which
 6 shall be at the expense of such town, and under the direction
 7 and control of the municipal officers of the town where located.
 1854, c. 77, § 1. 1844, c. 94, § 2.

SECT. 3. Whenever it shall be necessary to provide a suitable
 2 outfall for any such drain at or near low water mark, or at any
 3 other suitable place, where no injury or damage will result
 4 therefrom, the same may be located and constructed for that
 5 purpose over the lands of private persons; and such location
 6 shall be made, and damages assessed and paid therefor, as is
 7 provided by law for the location of streets and town ways.
 1854, c. 77, § 1.

SECT. 4. The abutters upon the line of any such public drain,
 2 and the owners of private drains contiguous thereto, shall be
 3 allowed to enter and connect, at suitable places, therewith, upon
 4 application as herein provided, and paying therefor such sum as
 5 the municipal officers shall determine. The said officers shall
 6 also establish such other regulations and conditions as they may
 7 deem expedient, upon which the entering public drains in any
 8 case shall be granted; and shall give to the person applying and

9 paying as aforesaid, a written permit for such entrance. All
10 applications for permits shall be in writing, and shall distinctly
11 describe the land to which they are to apply. The privilege
12 granted by such permit shall be available to the owner of the
13 land described, his heirs and assigns, and shall run with the
14 land, without any other or subsequent charge or payment.

1854, c. 77, § 2.

SECT. 5. If any person is dissatisfied with the sum he is
2 required to pay for permission to enter a public drain, and shall
3 within ten days after notice thereof, request, in writing, that
4 the same may be determined by arbitration, the said officers
5 shall nominate six persons, any two of whom selected by the
6 applicant, with a third person selected by the applicant himself,
7 shall be empowered to determine the sum to be paid; upon the
8 payment of which, and the fees of the arbitrators by the appli-
9 cant, he shall be entitled to such a permit as is mentioned in
10 the preceding section.

1854, c. 77, § 3.

SECT. 6. All drains heretofore constructed at the expense of
2 any town, shall be maintained, managed and controlled in the
3 same manner as if constructed under the provisions of this
4 chapter, subject to any rights which private persons may have
5 therein. And the privilege of entering such drains shall be
6 granted upon the same conditions as is provided in case of drains
7 constructed under the provisions of this chapter.

1854, c. 77, § 4.

SECT. 7. If any person shall connect any private drain with
2 any such public drain, or enter the same by any side drain,
3 without a permit as herein provided, the municipal officers shall
4 have power forthwith to cause such connection to be destroyed;
5 and such person shall be liable to a penalty, to the use of the
6 town where the offense is committed, not exceeding two hundred
7 dollars, to be recovered by indictment in the supreme judicial
8 court, or by an action of debt.

1854, c. 77, § 5.

SECT. 8. If any person shall willfully or negligently violate
2 any of the conditions and regulations prescribed in his permit,
3 the municipal officers shall have power, forthwith to disconnect
4 his drain from the public drain, and declare his permit forfeited;
5 in which case, such person, his heirs and assigns shall not be

6 allowed to enter such public drain until a new permit is granted.
7 If any person by construction or use of any private drain, shall
8 commit any nuisance, he shall be liable therefor, notwithstanding
9 anything herein contained. 1854, c. 77, § 5.

SECT. 9. After any such public drain shall be constructed,
2 and any person has paid for connecting therewith, it shall be
3 constantly maintained and kept in repair by the town where
4 located, so as to afford sufficient and suitable flow for all drain-
5 age entitled to pass through it. But it may be altered from its
6 former course, or other public drains may be substituted therefor;
7 but equally sufficient and suitable drainage must thereby be
8 afforded. If the town where any public drain is situated shall
9 not so maintain and keep the same in repair, any person entitled
10 to drainage through it, may have an action against the town for
11 his damages thereby sustained. 1854, c. 77, § 6.

SECT. 10. All proceedings of the municipal officers of towns,
2 under the provisions of this chapter, shall be at legal meetings
3 of their respective boards. A suitable record shall be made of
4 all permits granted as herein provided, which record shall
5 exhibit the persons and lands to which the respective permits
6 apply. The said officers shall have the exclusive direction on
7 behalf of their town of all prosecutions under this chapter.

1854, c. 77, § 7.

SECT. 11. If any person, after the sum to be paid by him for
2 a permit has been determined by arbitration, shall neglect to pay
3 the same within sixty days after notice thereof, with the fees of
4 the arbitrators, he shall have no benefit of such determination.
5 The municipal officers may determine the fees of the arbitrators,
6 in any case, and the same shall be paid in advance, if required;
7 the award of the arbitrators shall be returned by them to the
8 town clerk and recorded with the proceedings of the municipal
9 officers in establishing such drains. 1854, c. 77, § 8.

SECT. 12. If any private drain in any town shall become so
2 obstructed or out of repair as to do injury to any street or high-
3 way therein, and the person or persons using such drain shall
4 unreasonably neglect to repair such injury, after notice by the
5 street commissioner or highway surveyor, the same shall be
6 repaired by the town, and the expense thereof may be recovered

7 to the use of the town, in an action of the case against any one
8 or more of the persons using such drain. 1854, c. 77, § 9.

SECT. 13. If any person shall willfully or carelessly do any
2 injury or cause any obstruction to any public drain or outlet
3 thereof, constructed or maintained under the provisions of this
4 chapter, or to any street or highway culvert leading into the
5 same, he shall be liable to pay in an action of the case, double
6 the amount of the injury and damages so caused, to the use of
7 the town where the same is located, in addition to all other
8 penalties for such offense provided by law. 1854, c. 77, § 10.

Chapter 18.

NUISANCES.

Sect. 1. Certain nuisances described.

2. Places to be assigned for unwholesome employments.
3. Proceedings when places so assigned become offensive.
4. When buildings for the manufacture of gunpowder shall be deemed nuisances.
5. Burning bricks in parts of a town prohibited by vote; nuisances.
6. Water mills and dams on streams, and fences and buildings fronting on public ways, in certain cases, not nuisances.
7. Punishment for nuisances, on conviction; abatement thereof.
8. Action for damages, whether nuisances be public or private.
9. Process for abatement of a nuisance.
10. Warrant to be stayed, if defendant give security to discontinue the nuisance.
11. Expenses of abatement to be defrayed from materials, if sufficient; otherwise, as in case of execution.
12. Equity jurisdiction of S. J. Court. Injunction may issue from court where a suit for nuisance is pending.
13. Stationary steam engine not to be used without license.
14. Duty of town officers on application for a license.
15. Such engine erected without license to be deemed a nuisance.
16. Power of town officers to remove such engine.
17. Steam boilers to be provided with fusible safety plug.
18. Penalty for removing such plug, or using steam boiler without such plug.
19. Blasting rocks; notice to be given.
20. Violation, penalty for.

SECT. 1. The erecting, continuing or using any building or
2 other place for the exercise of any trade, employment or manu-
3 facture, which, by occasioning noxious exhalations, offensive
4 smells, or other annoyances, becomes injurious and dangerous

5 to the health, comfort, or property of individuals, or the public,
6 the causing or suffering any offal, filth, or noisome substance to
7 be collected, or to remain in any place to the prejudice of others,
8 the obstructing or impeding, without legal authority, the passage
9 of any navigable river, harbor, or collection of water, or the
10 corrupting, or rendering unwholesome or impure, the water of
11 any river, stream or pond, or unlawfully diverting the same
12 from its natural course or state, to the injury or prejudice of
13 others, and the obstructing or incumbering by fences, buildings
14 or otherwise, the public highways, private ways, streets, alleys,
15 commons, common landing places, or burying grounds, shall be
16 deemed nuisances, within the limitations and exceptions here-
17 after mentioned. R. S., c. 164, § 1.

SECT. 2. The municipal officers of any town may, when they
2 judge it necessary, assign some certain place or places in such
3 town for the exercise of any trade, employment or manufacture,
4 injurious as aforesaid, to the health, comfort, or property of
5 individuals or the public, and forbid the exercise of them in
6 places not so assigned, under penalty of their being deemed
7 public or common nuisances, and liable to be prosecuted and
8 abated as such. All such assignments shall be entered in the
9 records of such town, and may be revoked when said town
10 officers shall judge proper. R. S., c. 164, § 2.

SECT. 3. When any place or building, so assigned, shall be-
2 come a nuisance, offensive to the neighborhood, or injurious to
3 the public health, any person may make complaint thereof to the
4 supreme judicial court, and if, after notice to the party con-
5 plained of, the truth of said complaint shall be admitted by the
6 defendant by default, or otherwise made to appear to a jury on
7 trial, the court may revoke such assignment, and prohibit the
8 further use of such place or building for the offensive purposes
9 aforesaid, under a fine not exceeding one hundred dollars for
10 each month the same shall be so continued after such prohibi-
11 tion, to be recovered on indictment, to the use of said town; and
12 may order the same to be abated, and issue a warrant therefor,
13 or stay the same, as hereafter provided; and, if the jury on said
14 trial shall acquit the defendant, he shall recover his costs of the
15 complainant. R. S., c. 164, § 3.

SECT. 4. If any person shall carry on the business of manufacturing gunpowder, or of mixing or grinding the composition therefor, in any building within eighty rods from any valuable building, erected at the time when such business may be commenced, the building in which such business may be carried on as aforesaid, shall be deemed a public nuisance; and such person shall be liable to be prosecuted and indicted accordingly.

R. S., c. 164, § 4.

SECT. 5. Any town, at their annual meeting, may prohibit, by a vote, the burning of any bricks, or the erecting of any brick kiln for the purpose of burning the same, within such parts of said town, as they may deem for the safety of the citizens or their property. And if any person, by himself or others, shall burn any bricks or erect any brick kiln for that purpose, in any place prohibited as aforesaid, it shall be the duty of the municipal officers of such town, to cause said bricks or brick kiln to be forthwith removed, at the expense of the owners thereof; and the offender shall also be further liable on indictment to be punished by a fine not exceeding two hundred dollars, to the use of said town; and, if said bricks or brick kiln shall not have been, before a conviction on such indictment, removed, the court may issue a warrant for the removal of the same, or stay such warrant as hereafter provided.

R. S., c. 164, § 5.

SECT. 6. The erecting and maintaining of water mills, and dams to raise water for working the same, upon or across streams not navigable, as provided in the chapter relating thereto, shall not be deemed nuisances, unless the same shall become offensive to the neighborhood or injurious to the public health, as mentioned in the preceding first section, or unless the same shall occasion injuries or annoyances of a kind not within the purview of the said chapter. And fences and buildings fronting on public ways, commons or land appropriated to public use, shall not be deemed nuisances, when they have been erected for the times, and shall be justified as mentioned in the one hundred and tenth section of the nineteenth chapter.

R. S., c. 164, § 6.

SECT. 7. Whoever shall be convicted, upon indictment, of erecting, causing or continuing a public or common nuisance, as described in this chapter, or at common law, when the same has

4 not been modified or repealed by statute, where no other pun-
 5 ishment therefor is specially provided, may be punished by a
 6 fine not exceeding one hundred dollars; and the court, with or
 7 without such fine, may order such nuisance to be discontinued
 8 or abated, and may issue a warrant therefor, as hereafter pro-
 9 vided. R. S., c. 164, § 7.

SECT. 8. Any person injured in his comfort, property, or the
 2 enjoyment of his estate, by any nuisance as before described, or
 3 at common law as aforesaid, whether the same be a common and
 4 public nuisance, or a private nuisance, being one that is an
 5 injury to particular individuals only, may maintain against the
 6 party guilty thereof, an action on the case for the recovery of
 7 the damages which he has thereby sustained, unless it be other-
 8 wise specially provided by law. R. S., c. 164, § 8.

SECT. 9. When, upon indictment, complaint, or action, any
 2 person shall be adjudged guilty of a nuisance, the court before
 3 whom such conviction shall be had, may, in addition to the fine
 4 imposed, if any, or to the judgment for damages and costs, for
 5 which a separate execution shall issue, order that the said
 6 nuisance be abated or removed, at the expense of the defendant;
 7 and, after inquiring into and estimating, as nearly as may be,
 8 the sum necessary to defray the expense of such abatement, the
 9 said court may issue a warrant therefor, substantially in the
 10 form following:

11 "STATE OF MAINE.

12 "L., ss. To the sheriff of our county of L. or either of his
 13 deputies, Greeting.

14 "Whereas, by the consideration of our — court, — begun
 15 and held at —," (describing the court, and the term,) "upon
 16 indictment," (or, "complaint," or "action in favor of A. B."
 17 as the case may be,) "C. D. of —, &c., was adjudged guilty
 18 of erecting," ["causing," or, "continuing"] "a certain nuisance,
 19 being a building in said —, and for —," (or, "fence," or
 20 other thing, describing particularly the nuisance and the place,)
 21 "which said nuisance was ordered by said court to be abated
 22 and removed: We therefore command you forthwith, to cause
 23 said nuisance to be abated and removed; and also that you levy
 24 of the materials by you so removed, and of the goods, chattels

25 and lands of the said C. D., a sum sufficient to defray the
 26 expense of removing and abating the same, not to exceed the
 27 sum of ——— dollars," (the sum estimated by the court,) "to-
 28 gether with your lawful fees, and thirty-three cents more for
 29 this writ. And, for want of such goods and estate to satisfy the
 30 sums aforesaid, we command you to take the body of the said
 31 C. D. and him commit unto our jail in W. in said county, and
 32 there detain till he pay the sums aforesaid, or be legally dis-
 33 charged. And make return of this warrant, with your doings
 34 thereon, within thirty days. Witness, A. R., Esq., at ———,
 35 this ——— day of ———, in the year of our Lord ———.

36

J. S., Clerk."

37 And, when the conviction shall be had upon an action before a
 38 justice of the peace, and no appeal being made, the said justice,
 39 after estimating, as aforesaid, the sum necessary to defray the
 40 expense of removing or abating the nuisance, may issue a like
 41 warrant, making corresponding alterations in the form thereof.

R. S., c. 164, § 9.

SECT. 10. Instead of issuing the said warrant, the court or
 2 justice may order the same to be stayed, upon motion of the
 3 defendant, and upon his entering into recognizance, in such sum
 4 and with such surety as the court or justice shall direct, in case
 5 of an indictment, to the state, or, in case of a complaint or
 6 action, to the plaintiff, conditioned, either that the defendant
 7 will discontinue said nuisance, or that, within a time limited by
 8 the court, and not exceeding six months, he will cause the same
 9 to be abated and removed, as either shall be directed by the
 10 court; and, upon his default to perform the condition of the
 11 recognizance, the same shall be deemed forfeited, and the said
 12 court, or any justice thereof, in term time or in vacation, or
 13 said justice of the peace, upon being satisfied of such default,
 14 may order such warrant forthwith to issue, and scire facias to
 15 issue on said recognizance.

R. S., c. 164, § 10.

SECT. 11. The expense of abating a nuisance, by virtue of a
 2 warrant, shall be collected by the officer in the same manner as
 3 damages and costs are collected on execution; except that the
 4 materials of any buildings, fences or other things, that shall be
 5 removed as a nuisance, may be first levied upon and sold by the

6 officer, and, if any of the proceeds remain after satisfying the
7 expense of removal, such balance shall be paid by the officer, on
8 demand, to the defendant or the owner of the property levied
9 upon; and, if said proceeds shall not be sufficient to satisfy said
10 expenses, the officer shall collect the residue thereof, as before
11 mentioned. Any person committed to jail on such warrant,
12 may be admitted to the privilege of the oath for the relief of
13 poor debtors, in the same manner as if he had been committed
14 on execution. And, if said expense cannot be collected of the
15 defendant, it shall be paid in the same manner as costs in
16 criminal prosecutions. R. S., c. 164, § 11.

SECT. 12. The supreme judicial court may hear and deter-
2 mine, in equity, all matters concerning nuisances, in which
3 there is not a plain, adequate and complete remedy at law; and
4 may direct any fact to be determined by a jury, when they shall
5 deem it necessary. And any court of record, before whom an
6 indictment, complaint or action for a nuisance may be pending,
7 may, in any county, issue an injunction to stay or prevent any
8 such nuisance, and make such orders and decrees for enforcing
9 or dissolving the same as justice and equity may require.

R. S., c. 164, § 12.

SECT. 13. No stationary steam engine shall be erected to be
2 used in any town, unless the municipal officers of such town
3 shall have previously granted license therefor, designating the
4 place where the building or buildings shall be erected in which
5 such steam engine shall be used, the materials and mode of
6 construction thereof, the size of the boiler and furnace, and such
7 provisions and limitations as to height of chimneys or flues, and
8 protection against fire and explosion, as they shall judge neces-
9 sary and for the safety of the neighborhood; such license to be
10 granted on written application, and to be recorded in the records
11 of such town, and a certified copy thereof furnished without
12 charge to the person or persons applying for such license.

1846, c. 191, § 1.

SECT. 14. Whenever application shall be made for such
2 license, said officers shall assign a time and place for the con-
3 sideration of the same, and shall give public notice thereof at
4 least fourteen days beforehand, in such manner as they may

5 select, and at the expense of the applicant, that all persons
6 interested may be heard before granting a license.

1846, c. 191, § 2.

SECT. 15. Any such engine erected without license as afore-
2 said, shall be deemed and taken to be a common nuisance,
3 without any other proof thereof than proof of its use.

1846, c. 191, § 3.

SECT. 16. The said officers shall have the same authority to
2 abate and remove any such steam engine, erected contrary to
3 the foregoing provisions, as is given to the health committee or
4 health officer, in the fifteenth chapter, for the removal or dis-
5 continuance of the nuisances therein mentioned.

1846, c. 191, § 4.

SECT. 17. No person or corporation shall use, or cause to be
2 used, any steam boiler in this state, unless the same be provided
3 with a fusible safety plug, to be made of lead, or some other
4 equally fusible material, and to be of a diameter of not less than
5 one half an inch, which plug shall be placed in the roof of the
6 fire-box, when a fire-box is used; and, in all cases, shall be
7 placed in a part of the boiler fully exposed to the action of the
8 fire, and as near the top of the water line as any part of the fire
9 surface of the boiler; and for this purpose it shall be lawful to
10 use Ashcroft's "protected safety fusible plug."

1850, c. 189, § 1.

SECT. 18. If any person shall, without just and proper cause,
2 remove from the boiler the safety plug, or shall substitute
3 therefor any material more capable of resisting the action of the
4 fire than the said safety plug so removed, or if any person or
5 corporation shall use or cause to be used in this state, for the
6 space of six consecutive days, a steam boiler unprovided with a
7 safety fusible plug as herein provided, such person or corpora-
8 tion so offending shall be punished by a fine not exceeding one
9 thousand dollars, recoverable by indictment in the supreme
10 judicial court.

1850, c. 189, § 2, 3.

SECT. 19. Any person or persons engaged in blasting lime-
2 rocks or other rocks, shall before each explosion give seasonable
3 notice thereof, so that all persons or teams that may be ap-
4 proaching, shall have a reasonable time to retire to a safe

5 distance from the place of said explosion; and no such explosion
6 shall be made after sunset. 1852, c. 257, § 1.

SECT. 20. Any person who shall violate the provisions of the
2 preceding section, shall be liable to pay five dollars for each
3 offense, to be recovered in an action of debt for the use of the
4 person who may sue therefor; and shall also be liable to pay
5 all damages caused by any explosion, when seasonable notice
6 thereof was not given; and in case the person or persons so
7 engaged in blasting rocks shall be unable, or after judgment
8 and execution, by the poor debtor's oath thereon, shall avoid
9 payment of the fine and damages and costs, then the owner or
10 owners of the quarry or quarries, in whose employment such
11 person or persons may be engaged, shall be liable for the same.
1852, c. 257, § 2.

Chapter 19.

WAYS.

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ARTICLE I.—*Location, Alteration or Discontinuance of Highways.*

SECT. 1. Applications for location, alteration or discontinuance of highways, leading from town to town, shall be made by petition in writing, to the county commissioners, at one of their regular sessions, within and for the county in which such new highway or alteration or discontinuance shall be wanting.

R. S., c. 25, § 1.

SECT. 2. Said commissioners, when satisfied that the petitioners are responsible, and that inquiry into the merits of their application is expedient, shall view the premises, first giving to the parties interested thirty days notice of the time and place of their meeting, by causing copies of such petition, with their order thereon, to be posted up in three public places in each town, in which any part of such highway may lie, and to be served upon the clerks of such towns, and to be published in some newspaper, if any there be, in the same county; which

10 notice shall be considered sufficient for individuals, as well as
11 the public. R. S., c. 25, § 2.

SECT. 3. If after such view and hearing of the parties and
2 their testimony, which hearing shall be at the time and place
3 of such view, or at some convenient place in the vicinity, after
4 such view, they shall judge the same to be of common con-
5 venience and necessity, the said commissioners shall have power
6 to lay out, alter or discontinue such highway, or any part
7 thereof, and shall estimate the damages, if any, which any
8 person may sustain by reason thereof; and shall make a correct
9 return of their doings under their hands, with an accurate plan
10 or description of said highway, so laid out, altered or discon-
11 tinued, to the regular session of said county commissioners'
12 court to be held next after such proceedings shall have been
13 had and finished, and shall cause the same to be duly recorded
14 whenever the proceedings in relation thereto shall be completed,
15 and the said return, pending such proceedings, shall remain
16 upon the said commissioners' files, in the custody of their clerk,
17 for the inspection of interested parties. 1852, c. 221, § 1.

SECT. 4. In all locations or alterations of highways, made by
2 the county commissioners, they shall cause durable monuments
3 to be erected at the angles thereof. R. S., c. 25, § 4.

SECT. 5. Whenever the county commissioners shall make and
2 record their return, as provided in section three of this chapter,
3 they shall also cause to be entered of record, that the original
4 petition, upon which their proceedings are founded, is continued,
5 until their second next regular session, to be held thereafter;
6 and all persons, aggrieved by their decision, in estimating dam-
7 ages, shall present their petitions for redress at the first or said
8 second next regular session; and, if no such petition be then
9 presented, the proceedings upon the original petition shall be
10 closed, and so entered of record; and all claims for damages, not
11 before allowed, shall be forever barred. R. S., c. 25, § 5.

SECT. 6. If any such petition be presented, as aforesaid, for
2 increase of damages, the county commissioners shall still further
3 continue the original petition from term to term, until a final
4 decision shall be had on such petition for increase of damages
5 as hereinafter provided; after which, the record of the pro-

6 ceedings on said original petition shall be completed, and not
7 before. R. S., c. 25, § 6.

SECT. 7. All damages awarded to any persons on account of
2 the laying out, altering or discontinuing of any highway, under
3 the provisions of this chapter, shall be paid out of the treasury
4 of the county in which such highway shall be located; and the
5 commissioners shall order the same to be paid accordingly.
6 Tenants for life or years, and persons, owning a remainder or
7 reversion, shall be entitled to have their damages allowed to
8 them severally, in proportion to their respective interests in the
9 property affected. R. S., c. 25, § 7.

SECT. 8. The county commissioners in their respective coun-
2 ties, are hereby authorized to suspend the payment of damages
3 awarded to owners of land over which any county road may be
4 located, until said land is actually taken for said road.

1854, c. 92, § 1.

SECT. 9. Any party aggrieved by the doings of the commis-
2 sioners in estimating damages, as aforesaid, may have a jury to
3 determine the matter of his complaint, on his petition presented
4 pursuant to the fifth section of this chapter, unless he shall
5 agree with the parties, adversely interested, to have the same
6 determined by a committee, to be appointed under the direction
7 of the commissioners. In case of controversy respecting the
8 interests of any party claiming damages as aforesaid, the said
9 jury or committee shall have power to consider and determine
10 such question of interest, so far only, as respects the damages
11 of such complainant. Any town, or other corporation, aggrieved
12 by the estimate of the commissioners, shall be entitled to a
13 similar remedy, by a jury or committee, as is provided for indi-
14 viduals claiming damages. R. S., c. 25, § 8.

SECT. 10. If two or more persons shall apply, at the same
2 time, for joint or several damages, they may join in the same
3 petition to the commissioners; and if several applications shall
4 be pending at the same time, before the commissioners, for a jury
5 or committee, relative to the same highway, the said commis-
6 sioners may, at their discretion, cause all such applications to be
7 considered and determined by the same jury or committee; and
8 the costs shall be taxed, either jointly or severally, as the com-

9 missioners shall determine to be equitable. The commissioners
10 shall also have like power in case of adverse petitions relative
11 to the same highway. R. S., c. 25, § 9.

SECT. 11. No such petition shall abate by reason of the death
2 of any petitioner; but the executors or administrators, or the
3 heirs or devisees, if they shall be the persons interested, may
4 appear and prosecute such petition, or present a new one, in the
5 same manner, and with the same effect, as the original party
6 might have done if living. R. S., c. 25, § 10.

SECT. 12. If, upon the death of one or more of several peti-
2 tioners for a jury, the executors, administrators, heirs or devisees
3 of such petitioners, after notice from the commissioners that
4 such petition is pending, shall neglect to appear, or to prosecute,
5 the surviving petitioners may proceed without them.

R. S., c. 25, § 11.

SECT. 13. The warrant for a jury shall be directed to the
2 sheriff of the county or his deputy, if disinterested, or to a
3 coroner, as the commissioners shall order, requiring him to
4 summon a jury of twelve men to hear and determine the matter
5 of the complaint set forth in the petition for such jury, and to
6 decide all such matters as shall legally come before them at
7 such hearing. R. S., c. 25, § 12.

SECT. 14. The officer thus authorized shall make application
2 to the selectmen of two or more towns, in said county, other
3 than the town where the property affected is situated, who shall
4 draw out of the jury box of their respective towns, so many
5 jurors as such officer shall require, not exceeding nine from any
6 one town. The jurors shall be drawn, summoned and returned,
7 as in other cases; excepting that the jurors need not be sum-
8 moned more than twenty-four hours before the time appointed
9 for their attendance. R. S., c. 25, § 13.

SECT. 15. If by accident, or challenge, there shall happen
2 not to be a full jury, the officer who summoned the jury, or in
3 his absence, the officer attending the jury, shall return some
4 suitable person to supply the deficiency. R. S., c. 25, § 14.

SECT. 16. In all cases of petitions for increase of damages, as
2 aforesaid, on account of any highway, when the damages are

3 liable to be assessed on the county, the attorney for the state, in
4 the county where such highway is situated, shall be duly notified
5 of such application, and shall be authorized to act in behalf of
6 the county, as well in agreeing on a committee, as before pro-
7 vided, as in relation to a jury. It shall be required of the
8 officer, in his warrant for summoning a jury, or of the committee
9 acting by agreement, to give reasonable notice to said attorney,
10 and it shall be the duty of such attorney, to attend said jury or
11 committee, in behalf of his county. The warrant shall also
12 specify the other parties interested, whom said officer shall be
13 required to notify, as aforesaid. R. S., c. 25, § 15.

SECT. 17. The commissioners, if they see cause, may appoint
2 some person, specially qualified for the purpose, to preside at
3 the view and hearing before the jury; who shall be under oath,
4 and shall be allowed a reasonable compensation from the county,
5 to be fixed and allowed by the commissioners. The jury shall
6 also be attended by some officer qualified as aforesaid, to summon
7 jurors for the purpose, and who shall preside at the view and
8 hearing, if no other person is specially appointed; who shall be
9 sworn for the occasion. R. S., c. 25, § 16.

SECT. 18. The person who shall preside at the trial, shall
2 keep order therein, and shall administer an oath to the jurors,
3 for the faithful discharge of their duty, and to all the witnesses
4 examined, in the usual form. R. S., c. 25, § 17.

SECT. 19. The jury shall view the premises, and also hear
2 and examine all such legal evidence as may be laid before them,
3 with the observations of the parties, or their counsel, thereon.
4 All the jurors shall sign the verdict, which may be agreed upon,
5 and the same shall be enclosed in a sealed wrapper, with an
6 endorsement, expressing what it contains; and shall be delivered
7 so endorsed to the officer having charge of the jury. The verdict
8 shall be returned at the session of the commissioners next follow-
9 ing the order for summoning the jury. The officer shall make
10 return of his doings with the verdict, and specify his own travel
11 and attendance, and that of each juror. If the jury do not
12 agree on a verdict, the commissioners may issue a new warrant,
13 at their next session, on motion of the original petitioner.

R. S., c. 25, § 18.

* SECT. 20. The verdict of the jury, or the report of the committee, duly returned to the said commissioners, and by them accepted and recorded, shall be conclusive on the parties; and the proceedings on the original petition shall be considered completed. The party prevailing, whether the claimant for damages, or the county, town or other corporation interested, shall recover their costs, incurred on the occasion, against the other.

R. S., c. 25, § 19.

SECT. 21. There shall be allowed to owners of lands, over which such road was laid out, twelve months from the session of the commissioners, when the proceedings on said original petition are closed, to take off their wood, timber or trees; also to the county or town, liable for damages, which may then appear of record to be due, by reason of the laying out, altering or discontinuing such road, a term of time not exceeding two years, to pay the same; and to the county, town or plantation, through which any such road is laid out, a time not exceeding three years, within which to open and make the same.

R. S., c. 25, § 20.

SECT. 22. If, on inspection of any report or verdict, duly returned, relating to any highway intended to be laid out, altered or discontinued, the county commissioners shall be of opinion that the same ought not to be done, subject to such high damages as are awarded, it shall be their duty, instead of accepting such report or verdict, in full, to enter upon the record of proceedings under the original petition, a judgment, that the prayer of the said original petition for such road, to be laid out, altered or discontinued, shall not be granted, for the reason aforesaid; and no damage shall be allowed, but the county or town liable therefor shall pay the costs awarded, in the same manner as if the report or verdict had been accepted in regard to damages.

R. S., c. 25, § 21.

SECT. 23. Whenever any highway shall be discontinued, before the time limited for the payment of damages, awarded to the owners of the land over which such highway passes, the county commissioners may revoke their order for the payment of damages, and estimate and order payment of the damages actually sustained; *provided*, that the parties interested shall

7 have a right to have their damages, thus proposed to be varied,
8 to be estimated anew, by a jury or committee, as herein provided
9 in other cases of damages claimed. R. S., c. 25, § 22.

SECT. 24. Petitions for laying out, altering or discontinuing
2 any highway, extending into or through two or more counties,
3 may be presented, as aforesaid, at any regular session of the
4 commissioners, for either of said counties. Said commissioners,
5 in their discretion, may request a meeting of the commissioners
6 of the other counties, affected, at such time and place as they
7 shall appoint, to view the route proposed by such petition, by
8 causing an attested copy of such petition to be served upon the
9 chairman of said commissioners, in each of the counties afore-
10 said, together with a copy of the order of the court, appointing
11 the time and place of said meeting; and they shall notify all
12 persons and corporations interested, by causing copies of such
13 petition and order to be published in the state paper, and also
14 in one other paper, printed in each county, through or in which
15 the proposed road may be located, altered or discontinued, if
16 any such paper there be, and also to be posted up in three public
17 places in each town directly interested, and served upon the
18 clerk of said town. R. S., c. 25, § 23.

SECT. 25. All notices required to be served, posted up or
2 otherwise published, in the preceding section, shall be given at
3 least thirty days before the time appointed for the meeting
4 aforesaid. R. S., c. 25, § 24.

SECT. 26. At such meeting, a majority of the commissioners
2 present may proceed to adjudicate on such petition; *provided*,
3 that each county be represented by a majority of its own com-
4 missioners at the meeting, otherwise they shall only have power
5 to adjourn the meeting. R. S., c. 25, § 25.

SECT. 27. If a majority of all the commissioners, a quorum
2 being formed as aforesaid, shall adjudge it to be of public con-
3 venience and necessity to lay out, alter or discontinue such
4 highway, or any part thereof, as prayed for, the commissioners
5 shall proceed to lay out, alter or discontinue that part of such
6 highway which lies in their respective counties, in the same way
7 and manner as is provided in this chapter for other highways
8 under their jurisdiction. R. S., c. 25, § 26.

ARTICLE II.—*Location, Alteration and Discontinuance of Town and Private Ways.*

SECT. 28. The selectmen of the several towns, either personally or by such person or persons as they may appoint, may lay out, alter or widen town ways for the use of their respective towns, and private ways for the use of one or more of the inhabitants thereof. R. S., c. 25, § 27.

SECT. 29. No such town or private way shall be laid out or altered, unless seven days at least previous thereto, a written notice of the intention of the selectmen of the town to lay out or alter the same, and stating the termini of such road, shall be posted up in two or more public places in the town and in the vicinity of the proposed route. R. S., c. 25, § 28.

SECT. 30. No such town or private way shall be established, as laid out or altered, until such laying out or alteration, with the boundaries and admeasurements of the same, shall have been reported to the town, and accepted and allowed, at some meeting of the inhabitants regularly warned and notified therefor; nor unless such laying out or alteration, with the boundaries and admeasurements aforesaid, shall have been filed with the town clerk seven days at least before such meeting. R. S., c. 25, § 29.

SECT. 31. Any town, at a meeting regularly called for the purpose, may discontinue any town or private way. R. S., c. 25, § 30.

SECT. 32. If any damage shall be sustained by any person, in their property, by the laying out, altering or discontinuing of a town way, or private way, they shall receive such compensation as the selectmen shall determine; which shall be paid by the town, if it is a town way; which fact the selectmen shall determine; but if it be a private way, by the persons for whose benefit it is laid out, altered or discontinued. In case any person shall be aggrieved by the determination of the selectmen, he may, upon application to the county commissioners, have his rights ascertained by a jury, or if he can agree with the agent of the town, or party liable to pay, by a committee, to be appointed by said commissioners, in like manner, as is provided in this chapter, in respect to the recovery of damages for laying out highways. R. S., c. 25, § 31.

SECT. 33. If the selectmen of any town shall unreasonably
2 refuse or neglect to lay out or alter any such town way or
3 private way, when requested, in writing, by one or more of the
4 inhabitants thereof, or proprietors of land therein, if leading
5 from land under his possession and improvement, to any high-
6 way or town way, the commissioners, at any meeting within one
7 year, on application of any of the persons, so requesting, by
8 petition in writing, may cause the said town or private way to
9 be laid out or altered; and they shall ascertain the place and
10 course of the way, and estimate the damages sustained by any
11 person by reason thereof, and the same, with the costs of the
12 proceeding, shall be paid by the parties, who would have been
13 liable for damages, if no appeal had been made from the select-
14 men's decision; and the commissioners may issue a warrant of
15 distress therefor, saving to the parties the like remedy by a
16 committee or jury, if they are dissatisfied with the determination
17 of the commissioners. R. S., c. 25, § 32.

SECT. 34. The commissioners may also, upon the application
2 in writing of any inhabitant, or proprietor of land in any town
3 aggrieved by the refusal of such town to discontinue any town
4 way, or private way, and after due notice and hearing of all
5 parties interested, order such way to be discontinued; saving, to
6 parties interested, the same rights and remedies as are provided
7 in the thirty-first section of this chapter. R. S., c. 25, § 33.

SECT. 35. If any town shall unreasonably refuse or delay to
2 approve and allow any town way or private way, laid out or
3 altered by the selectmen thereof, and to put the same on record,
4 any person aggrieved by such refusal or delay, if such way lead
5 from land under his possession and improvement, to any high-
6 way or town way, may, within one year thereafter, apply by
7 petition in writing, to the commissioners. The commissioners
8 may, if they so determine, approve of the way, as laid out or
9 altered, by the selectmen, and order the said laying out, or
10 alteration, with their order thereon, to be recorded by the clerk
11 of such town; which order shall have the like effect, as if
12 accepted by the town and recorded. R. S., c. 24, § 34.

SECT. 36. When any town way shall have been laid out or
2 altered by the commissioners, it shall not within five years there-

3 after be discontinued or altered by the town. When any such
 4 way shall have been discontinued by the commisssoners, the town
 5 shall not within two years thereafter lay out the same again;
 6 but the commissioners shall have the same power to alter or
 7 discontinue such ways as they now have to alter or discontinue
 8 county roads, and this power shall continue during the period
 9 of five years named in the first clause of this section.

1855, c. 162.

SECT. 37. All applications to the county commissioners, for
 2 an inquiry of damages for the laying out, altering or discont-
 3 uing any town or private way, shall be made and filed in the
 4 office of the clerk of said commissioners, within twelve months
 5 next after the allowance and establishing of said way, and not
 6 afterwards; provided, it shall appear by the report of the select-
 7 men, who laid out or altered said way, that notice was duly
 8 given to the parties, as provided in section twenty-nine of this
 9 chapter; or if such town or private way was laid out, altered
 10 or discontinued by the county commissioners, that it shall appear
 11 by their records, that they gave notice to said parties of their
 12 meeting, in the manner provided, as to highways, in section two
 13 of this chapter. R. S., c. 25, § 36.

SECT. 38. If no such notice thus appears to have been given
 2 by said selectmen or county commissioners, such application may
 3 be made and filed at any time within one year after the expira-
 4 tion of said twelve months. R. S., c. 25, § 37.

SECT. 39. In all applications for inquiry of damages, relating
 2 to town ways and private ways, the applicants may join, or sever,
 3 in the same manner, and the committee or jury shall consider
 4 and determine the right and interest of the applicants, in the
 5 real estate alleged to be damaged, as is herein provided in the
 6 case of highways. R. S., c. 25, § 38.

SECT. 40. In addition to the remedies, herein before provided,
 2 for the recovery of the damages for the laying out, altering or
 3 discontinuing of any highway, town way or private way, the
 4 persons, entitled to such damages, may recover the same when
 5 duly ascertained, as provided in this chapter, together with all
 6 costs taxed in his favor, in an action of debt against the parties

7 liable; provided, that demand for the payment of the same shall
 8 have been made on the treasurer of any county or town, liable
 9 to pay the same, thirty days, at least, before the suit be brought.

R. S., c. 25, § 39.

SECT. 41. If any town, liable to open and make or alter any
 2 highway, town way or private way, duly accepted and ordered
 3 by the county commissioners, shall neglect so to do, within the
 4 time limited by the provisions contained in this chapter, the said
 5 commissioners, on application therefor, shall appoint an agent,
 6 other than either of said commissioners, to cause the said road
 7 to be opened and made passable, or altered, as the case may be,
 8 by contract or otherwise; and when the same shall be agreed to
 9 be made passable, or altered, by contract, the agent, making the
 10 contract; shall file a certified copy thereof in the office of the
 11 clerk of the commissioners, from which he received his appoint-
 12 ment; and said commissioners shall forthwith certify to the
 13 assessors of the town or plantation interested, the amount he
 14 has contracted to give, and the time within which said contract
 15 is to be completed. The commissioners may examine into the
 16 doings of said agent, whenever they shall see cause, and may
 17 remove him, and substitute another, at discretion; and no
 18 account of such agent shall be allowed, without due notice given
 19 to the town interested; and after the completion of the service
 20 of the agent, and the final allowance of his accounts, the town
 21 shall be liable to pay all sums expended by the agent, with the
 22 incidental expenses of his agency and the settling of his accounts
 23 adjudged by said commissioners to be reasonable, and the
 24 amounts due on any contracts by him made; and if such town
 25 shall neglect to pay the same, for thirty days, the commissioners
 26 shall issue a warrant of distress therefor against such town.

R. S., c. 25, § 40.

SECT. 42. Whenever any county road, or town or private
 2 way, shall be discontinued, in whole or in part, by the county
 3 commissioners, said commissioners, in their return thereof, shall
 4 fix a time, at which such discontinuance shall take effect.

R. S., c. 25, § 41.

SECT. 43. Any highway, or town or private way, laid out by
 2 the county commissioners, and not opened within six years from

3 the time allowed by the commissioners, agreeably to the provis-
4 ions of this chapter, shall be deemed to be discontinued.

R. S., c. 25, § 42.

SECT. 44. The inhabitants of plantations, who are, or may be,
2 empowered and required to assess taxes upon themselves, towards
3 the support of government, or for defraying the charges of any
4 county, and their officers, shall be vested with like powers, be
5 under the like obligations, and liable to like penalties, so far as
6 such powers, obligations and penalties relate to the making,
7 repairing or amending the highways, and for compensating any
8 individual, who may suffer damage for default of the same, as
9 towns and their like officers have, or are subject to; and like
10 proceedings shall be had by, or against such plantations, in the
11 premises, or their officers. The assessors of such plantations
12 shall be held to perform all the duties required of the selectmen
13 of towns, relating to highways, and invested with the same
14 powers.

R. S., c. 25, § 43.

ARTICLE III.—*Location, Building and Repair of Highways, in
Unincorporated Places.*

SECT. 45. The county commissioners, in their respective
2 counties, on application duly made to them, pursuant to the
3 provisions of the first section of this chapter, for the laying out,
4 altering or discontinuing any highway, in or through any tract,
5 township or plantation, other than towns, or such plantations, as
6 are described in the section last preceding, or on petition for an
7 order thereof, to amend and repair any such highway already
8 laid out, shall have authority so to lay out, alter or discontinue,
9 or amend and repair the same, or cause the same to be done;
10 and the same shall be done at the expense of the proprietors of
11 said tract, township or plantation, or of the county, or partly at
12 the expense of each, as said court shall order. All the propri-
13 etors of such tracts of land, townships, or plantations last
14 mentioned, shall be held to pay their proportion, according to
15 their interest, of all costs and expenses of making and repairing
16 the ways aforesaid, through any part of the tracts, townships or
17 plantations last mentioned; provided, nevertheless, that all lands
18 reserved for the use of the first settled minister, the ministry,

19 schools, or for the future appropriation of the legislature, in
 20 said tracts, townships and plantations last mentioned, shall be
 21 exempted from all taxes on account of highways.

R. S., c. 25, § 44.

SECT. 46. Whenever any person, or persons, shall make
 2 application to the county commissioners of any county, to locate
 3 and establish a public road or highway across any lands, not
 4 situated within the limits of any organized plantation or incor-
 5 porated town, or to make an assessment upon such lands, for the
 6 purpose of making or repairing any such road, already located
 7 or that may hereafter be located, said commissioners, upon being
 8 satisfied that said petitioners ought to be heard touching the
 9 matter set forth in their petition, shall, before having any further
 10 proceedings thereon, order the petitioners to give notice of the
 11 pendency of their petition, and of the time and place appointed
 12 to consider the same and adjudicate thereon, by causing the
 13 owner or owners of said lands, over which said highway is or
 14 may be located, if known, to be served with an attested copy of
 15 their petition and the commissioners' order thereon, fourteen days
 16 at least before the time so appointed: and, if said owners are
 17 unknown, then notice shall be given them by publishing said
 18 petition, and the commissioners' order thereon, for the term of
 19 six weeks in the state paper, the last publication to be thirty
 20 days, at least, before the time appointed to consider the same as
 21 aforesaid. And no proceeding affecting the rights of said owners
 22 shall be had, until such order of notice shall have been complied
 23 with. 1841, c. 11.

SECT. 47. After notice, as aforesaid, and a due hearing of
 2 the parties, the said commissioners, if they see cause, may pro-
 3 ceed to lay out, alter, or discontinue said highway, in the manner
 4 prescribed by law, or to order the same to be amended and
 5 repaired, at the expense of the proprietors or otherwise, as before
 6 provided in section forty-four. The proportion of the expenses,
 7 payable by said proprietors, shall be assessed and raised, as
 8 hereinafter provided. R. S., c. 25, § 46.

SECT. 48. Whenever any highway shall be laid out by the
 2 county commissioners, through any unincorporated tract of land,
 3 the said commissioners shall decide, whether, in their opinion,

4 such tract, or any part thereof, will be thereby enhanced in
5 value. Said commissioners may, upon a plan of said tract,
6 whether consisting of one or more townships, make as many
7 divisions, as they may think equitable, conforming, as near as
8 convenient, to known divisions, or separate ownerships; and they
9 may assess upon each division, which they shall consider to be
10 enhanced in value, towards the expense of making and opening
11 such road, such sum, as, in their judgment, shall be propor-
12 tionate to the value, and the benefits likely to result to it, from
13 the establishment of such road. R. S., c. 25, § 47.

SECT. 49. Said commissioners shall, thereupon, cause an
2 assessment to be made on such tracts of land, township or plan-
3 tation, or divisions thereof as aforesaid, if they see cause, at
4 such rates per acre, as they shall judge necessary for making or
5 opening such highway, and defraying the necessary expenses
6 attending the same. R. S., c. 25, § 48.

SECT. 50. The county commissioners, in their respective
2 counties, on or before the fifteenth day of July, in each year,
3 shall assess upon all unincorporated townships, or parts of such
4 townships, a sum of money sufficient to keep in repair the county
5 highways, which are, or may be, laid out and opened in such
6 townships or parts of townships, and also all roads which have
7 been, or may be, laid out and made therein by this state, and
8 the Commonwealth of Massachusetts, or roads therein, the repairs
9 and protection of which this state has assumed, or may assume:
10 Provided, that in all cases the same notice shall be published of
11 the time and place for the said assessment of taxes for the repair
12 of roads in places not included within the limits of any incor-
13 porated city, town or plantation within this state, as is required
14 for the location of such roads. 1844, c. 96, § 1.

SECT. 51. As soon as may be after such assessment shall
2 have been made, said commissioners shall publish a notice of the
3 amount so assessed, specifying how much is assessed on such
4 townships, or parts of townships, respectively, and the road, on
5 which such assessment is to be expended, in some newspaper
6 published in the county, if any, and in the state paper; and
7 shall certify, in writing, the same facts to the treasurer of the
8 county, where the money is to be expended. R. S., c. 25, § 50.

SECT. 52. Said commissioners may appoint suitable agents or
2 an agent, not members of their board, to expend such assess-
3 ment, in such proportions on said tracts, and in such manner
4 as they shall think best; and such agent shall give bond, with
5 sufficient sureties to their satisfaction, faithfully to expend the
6 money, and render an account thereof on demand. The owner
7 of any township or part of a township so assessed, shall have the
8 privilege of expending his tax, under the direction of such agent,
9 at any time before the fifteenth day of September, next after
10 such assessment; provided, he give notice in writing of his
11 intention, to the agent, on or before the first day of June of the
12 same year: and any expenditure so made, certified by such
13 agent to the county treasurer, shall be received as payment of
14 so much of his said tax. R. S., c. 25, § 51.

SECT. 53. The proprietors of said tracts, townships or plan-
2 tations, or divisions thereof, whether holding several rights or in
3 common, shall be severally assessed their respective proportions
4 in every tax which may be ordered, for making and opening, or
5 for altering or repairing the highways therein; provided, such
6 proprietors furnish the commissioners with an accurate descrip-
7 tion of their several rights or their several interests therein; and
8 any one proprietor who shall give a description of his interest
9 in such tract, shall be separately assessed. R. S., c. 25, § 52.

SECT. 54. The treasurer of the county, where the land so
2 assessed may lie, shall, forthwith, notify the state treasurer of said
3 assessment, as provided in section three, of chapter fourteen.

R. S., c. 25, § 53.

SECT. 55. The state treasurer shall give notice of such as-
2 sessment, as provided in section four, of chapter fourteen.

R. S., c. 25, § 54.

SECT. 56. The money, so assessed upon, and raised by the
2 county commissioners on said unincorporated tracts of land, shall
3 be applied and expended by a committee, to be appointed, for the
4 purpose, by the commissioners, in like manner as is provided in
5 section forty, of this chapter. R. S., c. 25, § 55.

SECT. 57. The proprietors of any such tract, township or
2 plantation, as has been described in section forty-four, are hereby
3 authorized to call meetings, for the purpose of raising such sums

4 of money, as they shall judge necessary, for making and repair-
5 ing highways within their limits, and for choosing officers, for
6 assessing and collecting the same, in the manner provided for
7 proprietors of common and undivided lands, in chapter eighty-
8 five. R. S., c. 25, § 56.

SECT. 58. Any person, or corporation, aggrieved by any de-
2 cision of any court of county commissioners, on application to
3 lay out, alter or discontinue any highway, may appeal to the
4 Supreme Judicial Court, held in the county where such decision
5 is made, under the limitations and restrictions herein contained.

1847, c. 28, § 1.

SECT. 59. The parties, petitioners or respondents may enter
2 their appearance before the county commissioners on such appli-
3 cation, jointly or severally; and any party so entering an appear-
4 ance, may appeal from the decision of the county commissioners,
5 after the same shall be entered on record, and before the next
6 term of said Supreme Judicial Court, and not afterwards. And
7 such appeal shall be entered in the said Supreme Judicial Court,
8 at its next term after said appeal is taken and not afterwards,
9 which appeal may be prosecuted by any other person or corpora-
10 tion, being any such party of record, upon the neglect of the
11 party so appealing to prosecute the same; and thereupon all
12 proceedings shall be stayed in said court of commissioners, until
13 a decision shall be had in the appellate court, from which there
14 shall be no appeal, except as is otherwise provided in this chap-
15 ter; and all persons and corporations claiming such appeal, shall
16 be held jointly and severally liable for all costs that may be ad-
17 judged against them. 1853, c. 54, § 1.

SECT. 60. In all such cases of appeal, it shall be lawful for
2 the Supreme Judicial Court at the term such appeal shall be
3 entered therein, and not afterwards, to appoint a special com-
4 mittee of three disinterested persons, who, being first duly
5 sworn, after giving such notice as the court shall order, shall
6 proceed to view the route named in the original petition; and
7 after a hearing of the parties and their evidence, shall report at
8 the next term of said Supreme Judicial Court, whether in their
9 opinion the judgment of the county commissioners shall be in
10 whole, or in part, affirmed or reversed. 1847, c. 28, § 3.

SECT. 61. Upon the acceptance of such report, the Supreme
 2 Judicial Court shall enter judgment thereon, including costs, as
 3 herein provided, and the same shall forthwith be certified to the
 4 court of county commissioners. If such judgment shall be
 5 wholly against the prayer of the original petition, the
 6 county commissioners shall proceed no further thereon; but if
 7 otherwise, then the county commissioners shall proceed to lay
 8 out, alter or discontinue such highway in accordance with the
 9 judgment, and complete the proceedings in the same manner, as
 10 the law provides when no appeal is taken. 1847, c. 28, § 4.

SECT. 62. Such committee shall be paid by the county for
 2 their time and travel a compensation equal to that allowed to
 3 county commissioners for their services; and in case the judg-
 4 ment of the county commissioners shall be affirmed in whole or
 5 in part, the party prosecuting the appeal shall pay all costs
 6 that have arisen since the appeal, if so adjudged by the Su-
 7 preme Judicial Court, and the commissioners shall issue their
 8 warrant therefor in the same manner as is provided for the col-
 9 lection of costs awarded against petitioners for a road, and the
 10 Supreme Judicial Court may in its discretion allow costs to be
 11 paid from the county treasury to the prevailing party in any
 12 such appeal. 1847, c. 28, § 5.

ARTICLE IV.—*Liability of Towns and others to repair Ways,
 and proceedings in relation thereto.*

SECT. 63. All highways, town ways, causeways, and bridges,
 2 laid out or being within the bounds of any town, or any planta-
 3 tion, such as is described in section forty-four of this chapter,
 4 shall be duly opened, and kept in repair, and amended, from
 5 time to time, that the same may be safe and convenient for
 6 travelers and their horses, teams, carts and carriages; and in
 7 default thereof, such town or plantation shall, on presentment of
 8 the grand jury for the county in which such town or plantation
 9 is, and on conviction thereof be liable to pay such reasonable
 10 fine as the court having jurisdiction thereof may order.

R. S., c. 25, § 57.

SECT. 64. Whenever any highway shall be or has been laid
 2 out, on the dividing line between any two towns, or any town

3 way, by the concurrent act of the selectmen of any two adjoining
4 towns on each side of such dividing line, the selectmen of such
5 towns shall have authority, for the purpose of making and
6 maintaining such way, to divide the same crosswise, for the
7 purpose of assigning to each of said towns, by metes and bounds,
8 their several parts of said way; provided, such division and
9 assignment shall, within one year after the making thereof, be
10 accepted by each of the towns concerned, at a legal meeting
11 thereof. Said division and assignment shall hold each of said
12 towns to repair and support their respective parts of said high-
13 way or town ways, in the same manner, and subject to the same
14 liabilities, in all respects, as if their part lay wholly in such
15 town. R. S., c. 25, § 58.

SECT. 65. If the selectmen of said adjacent towns cannot
2 agree on such division, or if either of said towns shall neglect or
3 refuse, for the term of one year, to accept of such division, the
4 selectmen of either of said towns may apply, in writing, to the
5 county commissioners, who shall thereupon have power to make
6 a just and equitable division, as aforesaid, and assign to each of
7 said towns, by metes and bounds, their respective parts thereof;
8 first giving notice thereof to all persons interested, by publishing
9 such written application, and the time and place assigned for
10 making such division, three weeks successively in a public
11 newspaper printed in said county, or by serving a copy thereof
12 upon the town clerks of said towns, thirty days previous to the
13 time appointed. R. S., c. 25, § 59.

SECT. 66. The county commissioners may, if they see cause,
2 lay out a highway in like manner as other highways, on the
3 dividing line between two towns, a part of the width thereof in
4 each of said towns; and at the same time may, without special
5 notice therefor, make such division and assignment, as is provided
6 in the preceding section. R. S., c. 25, § 60.

SECT. 67. All such divisions and assignments, made by the
2 county commissioners, shall be duly entered on their records;
3 and thereupon said towns shall be holden to open and make or
4 repair their respective parts of said ways, in the same manner,
5 and subject to the same liabilities, as in case of county or town
6 ways laid out wholly in such town. R. S., c. 25, § 61.

SECT. 68. There shall be chosen in each town, at the annual meeting, two or more suitable persons to be surveyors of highways; to be notified and sworn like other town officers; and in case any one refuse to accept, he shall forfeit the sum of ten dollars, to the use of such town; but no person shall be held to serve in said capacity more than once in three years. And in all cases where vacancies occur of surveyors in any town, the selectmen are authorized to appoint one or more surveyors to fill such vacancies. R. S., c. 25, § 62.

SECT. 69. The selectmen of every town, before the tenth day of April, annually, shall, in writing, assign to each surveyor his divisions and limits; which assignment he is hereby required to observe. R. S., c. 25, § 63. 1853, c. 42, § 3.

SECT. 70. Whenever any town shall elect the selectmen to be surveyors of highways, they may in writing delegate this power, or any part thereof, to such persons as they deem proper. R. S., c. 25, § 64.

SECT. 71. Every town shall raise such sum of money, to be expended in labor and materials on the highways and town ways, as they shall determine to be necessary; and the assessors shall assess the same on the polls and the estates, real and personal, of the inhabitants, residents and non-residents of their town, as other town charges are by law assessed; and shall deliver to each surveyor a list of the persons and the sums at which they are severally assessed, to be expended within his limits on or before the tenth day of May in each year; excepting in Portland. R. S., c. 25, § 65. 1853, c. 42, § 4.

SECT. 72. At least two-thirds of the sums granted by any town for making and repairing ways, shall be laid out and expended for that purpose before the first day of July, next after granting the same. R. S., c. 25, § 66.

SECT. 73. The surveyor shall give reasonable notice, in writing if desired, to each person on his list, resident in the town, of the sum he is assessed to the highways and town ways, and also forty-eight hours' notice, extraordinary casualties excepted, of the times and places he shall appoint for providing materials and laboring on the same; to the end, that each person may have opportunity to work thereon, in person or by substi-

8 tute, or with his oxen, horses, cart or plow, at the prices affixed
9 by the town to such labor or materials, to the full amount of
10 the sum at which he is assessed; or he may pay the surveyor
11 in money the sum he is assessed; which it shall be the duty of
12 the surveyor to expend, according to his best discretion, in labor
13 or materials, for repairing the ways in his limits.

R. S., c. 25, § 67.

SECT. 74. When the highways or town ways, in any town,
2 are blocked up or incumbered with snow, the surveyor, within
3 whose limits the same may happen, shall, forthwith, cause so
4 much thereof to be removed or trodden down, as will render the
5 roads passable, in such way and manner as the town shall
6 direct; otherwise at his discretion. In case of any sudden in-
7 jury to bridges or roads, he shall, without delay, cause the
8 same to be repaired.

R. S., c. 25, § 68.

SECT. 75. There shall be furnished and kept in repair, in
2 each surveyor's district, through which there is a mail route, in
3 any town, some effectual apparatus for opening roads, obstructed
4 with snow; and it shall be the duty of surveyors of highways,
5 whenever the roads are so obstructed, to make use of the same
6 in the districts aforesaid, and break and keep open said roads,
7 to the width of at least ten feet.

R. S., c. 25, § 69.

SECT. 76. The surveyor, at the expiration of his term, shall
2 render to the assessors a list of such persons, if any, as shall
3 have been deficient, on due notice, in working out or otherwise
4 paying their highway tax; which deficient sums shall be placed
5 by the assessors in a distinct column, in the next assessment of
6 a town tax upon such delinquents, and collected like other town
7 taxes, and paid into the town treasury.

R. S., c. 25, § 70.

SECT. 77. Every surveyor is hereby authorized, under the
2 direction of the selectmen, to expend an amount not exceeding
3 five per cent. of the tax committed to him, in planting trees for
4 shade and ornament about the public burying grounds, squares
5 and highways within the limits of his district, provided the town
6 shall vote for such expenditure at their annual meeting in
7 March.

1846, c. 2.

SECT. 78. Every surveyor is hereby authorized, within his
2 district, to remove any obstacle, natural or artificial, which shall

3 in any wise, obstruct, or be likely to obstruct, or render danger-
4 ous the passage of any highway or town way.

R. S., c. 25, § 71.

SECT. 79. He may also dig for stone, gravel or other mate-
2 rials, suitable for making or repairing the roads, in any land,
3 not planted nor inclosed, and the same may remove to any
4 place on the roads in his district, where he may judge it neces-
5 sary; provided however, that, if the land, where such materials
6 are dug up, be not within the limits of the highway, or town
7 way, as laid out, the proprietor thereof shall be entitled to an
8 equivalent in money, from the town, to be recovered after de-
9 mand on, and refusal by the surveyor, in an action on the case,
10 as on an implied promise.

R. S., c. 25, § 72.

SECT. 80. No surveyors of highways shall, without the ap-
2 probation of the selectmen first being had in writing, cause
3 any water course, occasioned by the wash of a highway or town
4 way, to be so conveyed by the side of such way, as to incom-
5 mode any person's house, store, shop or other building, or to
6 obstruct any person in the prosecution of his business; and any
7 person, aggrieved by the conveying of such water course, in
8 manner aforesaid, may complain to the selectmen, who, on re-
9 ceiving such complaint, shall view the water course complained
10 of; and, after due examination of the same, may direct the sur-
11 veyor to alter the said water course, in such manner as they
12 shall determine.

R. S., c. 25, § 73.

SECT. 81. If any commissioner or surveyor of highways shall
2 raise or lower any street or road in any town to the damage of
3 the owner or owners of the adjoining land, said owner or owners
4 may apply to the municipal officers of said town, and said officers
5 shall examine said street or road and assess the amount of
6 damages, if any, which shall be paid by the town to said owner
7 or owners, and such award shall be final. 1846, c. 216.

SECT. 82. When the sum appropriated and assessed for the
2 repair of highways and town ways in the limits of any surveyor
3 be insufficient, such surveyor, with the consent of the selectmen,
4 obtained in writing, may employ inhabitants of the town upon
5 the repair of ways in his limits, to an amount of labor, not ex-
6 ceeding fifteen per centum in addition to the highway tax, com-

mitted to him, to make up the deficiency. The persons, thus employed, shall be paid a reasonable compensation from the town treasury, or in such other mode, as the town may have previously prescribed. R. S., c. 25, § 74.

SECT. 83. Towns may raise such sums of money, from time to time, as they may deem necessary, to be laid out in making or repairing highways or town ways, including bridges, in such towns; and may direct the same to be assessed upon polls and estates, as other highway taxes are, and collected, as other cash taxes are: and the same shall be expended for the purposes aforesaid by the selectmen. R. S., c. 25, § 75.

SECT. 84. Any town, at an annual meeting, may authorize their assessors to abate any part, not exceeding three dollars, of the road tax of any inhabitant thereof, whether payable in money, or otherwise; provided, such inhabitant shall exhibit to such assessors satisfactory proof of his owning and exclusively using, on the public roads, cart wheels having felloes not less than six inches in width, during the year for which the tax may be assessed. R. S., c. 25, § 76.

SECT. 85. Any person in any town, who shall construct and keep in good repair a watering trough beside the highway, well supplied with water, the surface of which shall be at least two feet and a half above the level of the ground, and made easily accessible for horses and carriages, shall be allowed by the town three dollars out of his highway tax for each year he shall furnish the same: provided, if more than one person in any highway district claim to furnish such watering trough, the municipal officers of the town shall decide where said trough shall be located. 1852, c. 245.

SECT. 86. Every town may authorize their surveyors or other persons to enter into contracts for making or repairing the highways or town ways within the same. R. S., c. 25, § 77.

SECT. 87. Every town may also empower the surveyors to collect all such taxes as shall not be paid in labor or otherwise, within the time limited by law, or at such periods as may be agreed upon by the town; and for that purpose the assessors shall deliver to them warrants of distress, which shall be in substance like the warrants prescribed by law for collecting

7 other town taxes: or they may deliver a warrant, for collecting
8 the deficiency in any highway tax, to the collector, who shall
9 then proceed to collect the same in like manner as other taxes
10 are by law to be collected; and shall pay over the same to the
11 respective surveyors, who shall be held to account with the
12 selectmen for the expenditure thereof. R. S., c. 25, § 78.

SECT. 88. If any money shall remain unexpended in the
2 hands of the surveyors, after the expiration of their office, they
3 shall pay the same to the town treasurer. R. S., c. 25, § 79.

SECT. 89. If any surveyor shall neglect to pay over such
2 sums to the treasurer, for the time being, on demand, such
3 treasurer may recover the same, with twenty per cent. in addi-
4 tion thereto, in an action for money had and received; to be
5 commenced in the name of and for the use of the inhabitants of
6 the town. R. S., c. 25, § 80.

SECT. 90. Every surveyor who shall receive his rate bill,
2 shall exhibit the same to the selectmen, on the first Monday of
3 July annually, and also at the expiration of the term for which
4 he may have been appointed; and at those times respectively,
5 shall render an account of all moneys that may have been
6 expended by him on the ways: if he unreasonably neglect so to
7 do, he shall, for each offense, forfeit twenty dollars to the use of
8 the town; to be recovered with costs in an action of debt, to be
9 prosecuted in the name of the town by the treasurer thereof.

R. S., c. 25, § 81.

SECT. 91. Any town at its annual meeting may, if they see
2 cause, elect by ballot one or more road commissioners, not
3 exceeding five, in lieu of surveyors of highways. Said commis-
4 sioners shall be duly sworn; and vacancies in the board may be
5 filled in like manner, from time to time during the year, at any
6 town meetings duly notified. R. S., c. 25, § 82.

SECT. 92. Such commissioners, except as hereinafter pro-
2 vided, shall have all the rights and powers conferred upon, and
3 be subject to the duties enjoined upon, surveyors of highways
4 in this chapter. They shall also be liable to the same penalties
5 for neglect and misfeasance, so far as they may be individually
6 and personally guilty. For their services they may receive such
7 compensation as the town may provide. Said commissioners

8 may at any time assign the care and oversight of any of the
9 public roads in the town to any of their own number.

R. S., c. 25, § 83.

SECT. 93. The town assessors shall, on request, deliver to
2 said commissioners a rate bill of all the highway taxes by them
3 assessed for the current year, payable in labor or in materials,
4 with a statement of the rates and prices affixed to the same by
5 the town. If there be more than one commissioner, they may
6 assign and distribute to any of their number the collection of
7 said rate bill or any part thereof; who shall proceed to notify the
8 persons taxed, and require of them the like services, as a sur-
9 veyor may do, within the limits assigned by the selectmen; and
10 whose certificate, made to the assessors, shall be evidence of
11 such notice, and of the neglect of any persons taxed who may
12 not comply therewith.

R. S. c. 25, § 84.

SECT. 94. When any persons taxed on said rate bills are non-
2 resident proprietors of real estate in said town, or are absent,
3 leaving no attorney or agent, duly entered with the town clerk,
4 or otherwise known to the commissioners having charge of such
5 rate bill, such commissioners may give them notice of the amount
6 assessed to them respectively, and the times and places, for them
7 to appear and work out, or otherwise discharge the same, by
8 posting up advertisements thereof in two or more public places
9 in said town. If no person shall appear, within twenty days
10 thereafter, to discharge such taxes agreeably to such notice, such
11 commissioners shall make due return of such notice and neglect
12 to the assessors, as provided in the last section.

R. S., c. 25, § 85.

SECT. 95. Said delinquent taxes may be collected in the same
2 manner as other taxes assessed by towns are collected, by any
3 town collector, or one of said commissioners, or such other
4 person as the said commissioners may designate to the assessors
5 as collector of delinquent highway taxes. Such collector shall
6 be sworn, and shall give such bonds to the town, for the faithful
7 discharge of his duties, as said commissioners shall direct and
8 approve. The assessors shall duly commit such delinquent
9 taxes with their warrant, in due form of law to enforce the
10 collection thereof, to the collector thus designated; who shall

11 possess the same powers as other collectors of town taxes; and
12 shall render his account, and make payment of such sums as he
13 may collect, to the commissioners, until the next annual town
14 meeting, and afterwards to the town treasurer. Said treasurer
15 shall have the like powers, and be under the like obligations, to
16 compel such account and payment, as he has in regard to the
17 collector of town taxes. R. S., c. 25, § 86.

SECT. 96. Any town choosing road commissioners, as afore-
2 said, may, at their annual meeting, authorize the said commis-
3 sioners to receive money in payment of any tax, to them com-
4 mitted, in lieu of the labor or materials specified in the rate
5 bills, at such uniform discount from the nominal prices and rates
6 of such labor and materials, fixed by the town, as it may deter-
7 mine; provided the same be paid before the amount shall have
8 been certified to the assessors as delinquent.

R. S., c. 25, § 87.

SECT. 97. When any town shall have more than one road
2 commissioner, the selectmen shall designate one of them to be
3 chairman of the board of commissioners, who shall keep the rate
4 bills to them committed for the use of the board, shall make and
5 keep the records of accounts of the same, and receive all moneys
6 paid on account of said rate bills, and hold the same, subject to
7 be paid out, as the commissioners shall order. The said chair-
8 man shall give bond to the town, for the faithful performance of
9 all his duties, in such penal sum, and with such sureties, as the
10 selectmen shall approve. When only one road commissioner
11 shall be appointed and serve, he shall give bonds in like manner,
12 and be solely responsible, for all duties and liabilities pertaining
13 to the office, under any of the provisions of this chapter.

R. S., c. 25, § 88.

SECT. 98. If any person shall receive any bodily injury, or
2 shall suffer any damage in his property, through any defect or
3 want of repair or sufficient railing, in any highway, town way,
4 causeway or bridge, he may recover in a special action on the
5 case, of the county, town or persons, who are by law obliged
6 to repair the same, the amount of damage sustained thereby, if
7 such county, town or persons had reasonable notice of the defect
8 or want of repair. If the life of any person shall be lost,

9 through any such deficiency, the county, town or persons liable
 10 to keep such highway, town way, causeway, or bridge in repair,
 11 provided they have reasonable notice of such deficiency, shall
 12 forfeit not exceeding one thousand dollars, to be paid to the ex-
 13 ecutor or administrator of the deceased, for the use of his heirs,
 14 to be recovered by indictment. R. S., c. 25, § 89.

SECT. 99. No town shall be liable for any damage that may
 2 happen to any team or carriage, or to the load therein, by means
 3 of the insufficiency or want of repairs of any highway, or bridge,
 4 whenever the weight of the load upon said carriage, exclusive
 5 of the carriage, shall at the time such damage may happen, ex-
 6 ceed six tons. And upon the trial of any action for the recov-
 7 ery of such damage, it shall be incumbent on the plaintiff to
 8 prove the weight of said load. 1843, c. 34.

SECT. 100. In case the inhabitants of any town, or organized
 2 plantation, shall be fined for any deficiency in any highway or
 3 town way, by indictment, as provided in the sixty-third section
 4 of this chapter, the surveyor within whose limits the defective
 5 way is, shall be liable to refund the amount of the fine and costs,
 6 to be recovered by the town or plantation, in an action on the
 7 case; or the surveyor may, in the first instance, be liable to be
 8 prosecuted, instead of the town or plantation, by indictment, and
 9 fined, accordingly, for any such deficiency in his limits; provid-
 10 ed, such deficiency arise from his neglect, in not expending the
 11 money in his bills, or, in case of want of funds, in his not giving
 12 due notice of such deficiency to the selectmen of the town, or
 13 assessors of such plantation. R. S., c. 25, § 90.

SECT. 101. Only one indictment shall be presented, at any
 2 one term of any court, against any one town for neglect of
 3 opening highways or town ways, or keeping them in repair; but
 4 as many counts may be inserted in the same as shall be neces-
 5 sary to describe all the portions of ways alleged to be deficient.
 6 At the term when such indictment is found, the prosecuting
 7 officer shall not be permitted to tax a greater number of days
 8 attendance than the grand jury were in session at that time.

R. S., c. 25, § 91.

SECT. 102. All fines imposed on any town or plantation for
 2 deficiencies of the ways and bridges in the same, or on any

3 surveyor for the like cause, shall be appropriated to the repair-
4 ing of such defective ways and bridges. The court imposing
5 such fine shall appoint one or more persons to superintend the
6 collection and application of the same to the purposes aforesaid;
7 and the agents so appointed shall within three months after
8 collecting any such fine, make a return of their doings to the
9 clerk's office of said court, to be put on file, and be opened for
10 the inspection of the parties interested, and subject to be audited
11 and corrected by the court, on application of any such party.

R. S., c. 25, § 92.

SECT. 103. If any such agent shall be guilty of gross neglect
2 in the premises, or shall fraudulently misapply or retain the
3 amount of the fine so paid him, he shall forfeit double the
4 amount of such fine, to be recovered by indictment, to the use
5 of the town or plantation in whose limits said fine was to be
6 expended.

R. S., c. 25, § 93.

SECT. 104. Whenever a fine shall be imposed on any town or
2 plantation for deficiency of its ways or bridges, the clerk of the
3 court imposing the fine, shall forthwith certify the same to the
4 assessors of such town or plantation. The assessors, thereupon,
5 shall assess the same upon the polls and estates of such town or
6 plantation, like other town taxes; and certify the same to the
7 clerk of said court; and shall cause the same to be collected by
8 their collector, and paid over to the agent aforesaid, at such
9 time as said court may order.

R. S., c. 25, § 94.

SECT. 105. Should the same, when assessed, not be paid
2 within the time limited by the court, the clerk, on application
3 of such agent, may issue his warrant to enforce the collection
4 thereof, as the treasurer of the state is authorized to issue war-
5 rants to enforce the collection of the state tax.

R. S., c. 25, § 95.

SECT. 106. If such assessors shall neglect to make such
2 assessment, and to certify the same to the clerk of the said
3 court, and such town or plantation shall not cause the defective
4 way or bridge to be repaired, to the acceptance of the agent, and
5 pay the costs of prosecution to the clerk, within four months
6 after notice of such fine, the court may issue a warrant of

7 distress against such town or plantation for the collection of the
8 fine and costs, or such part of the same as may be in arrears.

R. S., c. 25, § 96.

SECT. 107. If, on the trial of any indictment, or action
2 brought to recover damages for an injury received, by reason of
3 any deficiency or want of repair in any highway, town way,
4 causeway or bridge, it shall appear that the county, town or
5 plantation, against which such suit is brought, has, at any time
6 within six years before such injury, made repairs on such way
7 or bridge, it shall not be competent for such county, town or
8 plantation, to deny the location thereof. R. S., c. 25, § 101.

SECT. 108. It shall be lawful for any person to take down or
2 remove any gates, rails, bars or fence, upon or across any high-
3 way or town way, unless the same shall there be placed for the
4 purpose of preventing the spreading of any infectious disease, or
5 unless the same shall have been erected or continued, by the
6 license of the county commissioners for the same county, or of
7 the selectmen of the town; and any person aggrieved by such
8 taking down or removal, may apply to the said commissioners
9 or said selectmen, respectively, who, if it shall appear that such
10 gates, rails, bars or fence were erected by license as aforesaid,
11 may order the same to be replaced by the person who removed
12 them. R. S., c. 25, § 97.

SECT. 109. Whenever any logs, lumber or other obstructions
2 shall be, unnecessarily, left on any highway or town way, it
3 shall be the duty of the surveyor, within whose limits the same
4 may be so left, or in his absence, of any other surveyor, within
5 the town, forthwith to remove the same. Such surveyor shall
6 not be liable for any loss or damage happening thereto, unless
7 occasioned by his gross negligence, or by design. The surveyor,
8 so removing the same, if no person appear to indemnify him for
9 the expense and trouble of removing, may sell at public vendue
10 so much of said logs, lumber or other obstructions, so removed,
11 as shall be sufficient for that purpose, with charges of sale; first
12 giving notice of the time, place and cause of such sale, by post-
13 ing up notifications in two public places in said town, seven
14 days at least prior to such sale. The person through whose
15 neglect or wilful default said logs, lumber or other obstructions

16 shall be so left, shall also be liable to be prosecuted, as at com-
17 mon law, for such nuisance. R. S., c. 25, § 98.

SECT. 110. Whenever any building, fence, or other incum-
2 brance, erected, or continued, on any highway, or town or pri-
3 vate way, common, training field, burying place, landing place,
4 or other land appropriated for public uses, or for the convenience
5 of the inhabitants of any county, town, parish or other local dis-
6 trict, shall be adjudged and determined a nuisance, and ordered
7 to be abated, and the materials of such building, fence, or other
8 incumbrance, upon a sale thereof by auction, shall be insufficient
9 to pay the costs and charges of prosecution and removal, the
10 court, from which the process for removal shall issue, may order
11 the deficient sum to be raised and levied from the goods and
12 chattels of the party who shall be convicted of erecting or con-
13 tinuing such nuisance. R. S., c. 25, § 99.

SECT. 111. Where buildings or fences have been erected, or
2 continued, for more than twenty years, fronting upon or against
3 any training field, burying place, common, landing place, high-
4 way, private way, street, lane, or alley, and, from length of
5 time, or otherwise, the boundaries thereof are not known, or
6 cannot be made certain by the records, or by any monuments,
7 such fences or buildings shall be deemed or taken to be the true
8 boundaries thereof; but, when such boundaries can be made cer-
9 tain, no length of time, less than forty years, shall justify the
10 continuance of a fence or building on any town or private way,
11 or on any highway, training field, burying place, landing place,
12 or other land appropriated for the general use or convenience of
13 the inhabitants of the state, or of any county, town, or other
14 local district; but the same may, upon the presentment of a
15 grand jury, be removed as a nuisance. R. S., c. 25, § 100.

SECT. 112. Every town shall erect and maintain guide posts
2 on the highways and other ways within the town, at such places
3 as shall be necessary or convenient for the direction of travel-
4 ers, in the manner hereinafter provided. R. S., c. 25, § 102.

SECT. 113. The selectmen of each town shall determine upon
2 such places, for the erection and maintenance of guide posts
3 therein, as, in their judgment, shall be found necessary and
4 convenient; and shall cause a fair record of their determination

5 to be entered and kept, on the books of the town clerk. For
 6 any unreasonable neglect of their duty, the selectmen, for the
 7 time being, shall forfeit and pay to the use of the state, at the
 8 rate of five dollars a month, during such neglect, to be recover-
 9 ed by indictment. R. S., c. 25, § 103.

SECT. 114. At each place, thus determined upon and re-
 2 corded, the town shall cause to be erected, a substantial post, of
 3 not less than eight feet in height, near the upper end of which
 4 shall be placed a board or boards, upon which shall be legibly
 5 and plainly painted, in black letters upon a white ground, the
 6 name of the next town on the route, and such other town or
 7 place of note, as the selectmen shall think proper, together with
 8 the distance or number of miles to the same; also the figure of
 9 a hand, with the fore finger thereof pointing to such town or
 10 place. Provided nevertheless, that the inhabitants of any town,
 11 at any annual meeting, may agree upon some suitable substi-
 12 tute for such guide post. R. S., c. 25, § 104.

SECT. 115. Every town, which shall neglect or refuse to
 2 erect and maintain such guide posts, or some suitable substi-
 3 tutes therefor, in the places recorded and determined on, as
 4 aforesaid, shall forfeit and pay, to the use of the state, five dol-
 5 lars, for each and every guide post they shall so neglect or
 6 refuse to erect and maintain, to be recovered by indictment.

R. S., c. 25, § 105.

SECT. 116. Every plantation, assessed in any public tax, shall
 2 be under the same obligations to erect and maintain guide posts,
 3 as towns are, by virtue of this chapter, and subject to the same
 4 penalties for neglect. The duties required of selectmen of towns
 5 shall be performed by the assessors of such plantations under the
 6 like penalties. R. S., c. 25, § 106.

SECT. 117. No way opened and dedicated to the public use,
 2 which shall be less than two rods in width throughout its entire
 3 length, shall be required to be maintained and kept in repair by
 4 any town, unless it shall be laid out and established as is herein
 5 prescribed. 1854, c. 81, § 1.

SECT. 118. It shall be the duty of the municipal officers of
 2 any town, whenever in their opinion the public safety requires
 3 it, to cause the entrances of all such ways in their respective

4 towns, entering on and uniting with any public way, to be closed
5 up, or by some other practicable and suitable means, to give
6 notice to the public not to enter upon such way. If such
7 entrances shall not be closed, and no such notice given, the
8 town in which such way may be, shall be liable for damages
9 caused by any defects therein, in the same manner as if such
10 ways were duly laid out and established; but the person or
11 persons, who shall open and suffer such ways to remain in an
12 unsafe condition, shall be liable for all damages, on account of
13 any defect therein, before the same shall be duly laid out and
14 established. 1854, c. 81, § 2.

SECT. 119. If any person shall throw down or remove any
2 fence, or other obstruction by which the entrance of any such
3 way shall have been closed, he shall forfeit not less than ten,
4 nor more than fifty dollars, for each offense, to be recovered by
5 an action of debt, in the name and to the use of the town where
6 the offense is committed. 1854, § 3.

ARTICLE V.—*Making and Repairing Private Ways.*

SECT. 120. Whenever any four or more persons shall be pro-
2 prietors and rightful occupants of any private way or bridge,
3 and any three of them shall make application in writing to a
4 justice of the peace, to call a proprietors' meeting, the said
5 justice may issue his warrant therefor, setting forth the time,
6 place and purpose of the meeting; and said warrant shall be
7 posted up in some public place in the town in which such way
8 or bridge is situate, seven days at least before the time appointed
9 for said meeting. R. S., c. 25, § 107.

SECT. 121. The proprietors and occupants so assembled, shall
2 choose a clerk and surveyor, both of whom shall be sworn.
3 They may also determine the manner of calling future meetings,
4 what repairs on said way or bridge are necessary, and each pro-
5 prietor's and occupant's proportion of labor and materials, to be
6 furnished for such repairs. The surveyor shall have the like
7 powers, with respect to such way or bridge, as are lawfully
8 exercised by the surveyors of highways. R. S., c. 25, § 108.

SECT. 122. If any proprietor or occupant, when duly required
2 by the surveyor, shall neglect or refuse to furnish his proportion

3 of labor or materials for the repair of such way or bridge deter-
4 mined on, as provided in the section preceding, he shall be
5 subject to the like penalties as are provided in case of highways,
6 and to be recovered in like manner. R. S., c. 25, § 109.

SECT. 123. If any surveyor thus chosen by said proprietors
2 or occupants, shall refuse or neglect to accept that trust, and to
3 take the oath aforesaid, he shall forfeit the sum of four dollars,
4 to be recovered in manner aforesaid. R. S., c. 25, § 110.

SECT. 124. The said proprietors and occupants, at any legal
2 meeting called for the purpose, may authorize their surveyor, or
3 any other person, to contract by the year, or for a shorter time,
4 for making and keeping in repair any such way or bridge, to
5 them belonging; and for that object may raise such sum of
6 money as they may judge necessary, and choose assessors, who
7 shall assess the same on the said proprietors and occupants, in
8 proportion to their interest in such way or bridge; and who shall
9 deliver the bill of such assessments to the said surveyor, with
10 proper warrants of distress, in substance, as is prescribed by
11 law for collecting town taxes. R. S., c. 25, § 111.

SECT. 125. Such surveyor may levy and collect all taxes for
2 the purpose aforesaid, in the same manner as surveyors of high-
3 ways may be empowered to collect highway taxes, by virtue of
4 section seventy-eight of this chapter. R. S., c. 25, § 112.

SECT. 126. If any such surveyor shall refuse or neglect to pay
2 over the moneys so collected, to such persons as he in his warrant
3 of distress shall be required, when demanded, he shall be liable
4 to the same penalty as is provided in section eighty of this chapter,
5 in case of surveyors of highways failing to pay over moneys to
6 the town treasurer, in like circumstances, to be recovered in a
7 like action. R. S., c. 25, § 113.

SECT. 127. All suits brought to recover forfeitures, under the
2 one hundred ninth, one hundred tenth, and one hundred thir-
3 teenth sections of this chapter, shall enure to said proprietors
4 and occupants; and the amount recovered shall be expended on
5 such private way or bridge. In all processes pertaining to such
6 suits, it shall be sufficient to describe such proprietors and
7 occupants, in general terms, as the proprietors and occupants of
8 such way or bridge, the same to be clearly described therein;

9 and the validity of such processes shall not be affected by any
10 change of the plaintiffs, arising by death of any of them, or
11 other transfer of interest. R. S., c. 25, § 114.

SECT. 128. Any person or persons may construct and main-
2 tain, for the use of themselves and the public, ice bridges across
3 any river, stream, or other body of water, at any suitable place
4 during the winter season, when the ordinary navigation of such
5 waters is obstructed by the formation of ice therein.

1852, c. 236, § 1.

SECT. 129. Any person who shall wilfully destroy any such
2 ice bridge, with the design to interrupt or prevent the passing
3 the same, shall forfeit not less than five nor more than twenty
4 dollars, to be recovered upon complaint, one half to the com-
5 plainant, and the residue to the use of the state.

1852, c. 236, § 2.

SECT. 130. No person shall take down or injure any fence,
2 or occupy any land for the construction of such bridges, or for
3 the convenience of passing the same, without the consent of the
4 owner or owners of such fence or land first obtained.

SECT. 131. If any person, by making an excavation near to
2 any street or public way, opened and used for public travel,
3 shall thereby cause any part of such street or way to cave in,
4 he shall be liable to pay to the town required by law to keep
5 such street or way in repair, all such sums as may be necessary
6 to repair such injury, with all the damages which such town
7 may be required to pay to any person who shall suffer injury by
8 reason of such defective condition of said street or way, which
9 may be recovered by such town in an action of the case.

1855, c. 122.

SECT. 132. But if any person, designing to make such exca-
2 vation, shall first make application in writing to the municipal
3 officers of the town, setting forth the nature and extent of the
4 proposed excavation, and requesting their direction thereon, it
5 shall be the duty of said officers to direct in writing the manner
6 in which such excavation may be made, to prevent injury to the
7 street or way, and if the person making such excavation shall
8 duly observe such written directions, he shall incur no liability
9 therefor.

1855, c. 122.

Chapter 20.**LAW OF THE ROAD.**

- Sect.* 1. Travelers with vehicles, meeting on the road, to pass to the right.
2. Modification of this rule.
 3. Duty when one traveler wishes to pass another.
 4. Teams and carriages not to travel without a driver, nor obstruct a road.
 5. Bells to horses with sleighs or sleds.
 6. Penalties.
 7. Stage drivers not to leave horses unfastened.
 8. Proprietors of bridges may restrict travelers passing thereon.
 9. Selectmen of towns may do the same.
 10. All persons are restricted when bridge is erected in whole or in part by the state.
 11. Penalty for violation.
 12. Carts and wagons on certain roads, drawn by more than two horses or oxen, to have wide rimmed wheels.
 13. Penalty, how recovered and appropriated.
 14. Power of magistrate to issue warrant for seizure of such cart or wagon.

SECT. 1. Whenever any persons shall meet each other on any
 2 bridge, turnpike, or other road, traveling with carriages, wagons,
 3 carts, sleighs or other vehicles, each person so meeting shall
 4 seasonably turn or drive his carriage or other vehicle to the
 5 right of the middle of the traveled part of such road or bridge,
 6 when practicable; so that the respective carriages or other
 7 vehicles aforesaid, may pass each other without interference.

R. S., c. 26, § 1.

SECT. 2. Where it is difficult or unsafe for persons traveling
 2 with any of the aforesaid carriages or other vehicles, on account
 3 of their being heavily loaded or otherwise, to turn or drive their
 4 carriages or other vehicles to the right of the middle of such
 5 traveled part as aforesaid, any person thus prevented when
 6 meeting with or overtaken by any other person traveling with
 7 any of the carriages or vehicles aforesaid, shall if requested stop
 8 a reasonable time at a convenient part of the road, to enable
 9 such other person to pass by.

R. S., c. 26, § 2.

SECT. 3. Whenever any person traveling with any carriage
 2 or vehicle as aforesaid on any bridge or road, shall overtake any
 3 other person with any such carriage or vehicle, either stationary
 4 at some inconvenient place for passing by or traveling at a slower
 5 rate, and shall request such other person to permit him to pass,

6 it shall be the duty of the person so overtaken to turn or drive
7 his carriage or vehicle to the right or left of the middle of the
8 traveled part of said bridge or road, or to stop a reasonable time
9 in some convenient place for the other person to pass by.

R. S., c. 26, § 3.

SECT. 4. No person shall permit his carriage or other vehicle
2 to travel or pass upon any such bridge or turnpike or other road
3 without a suitable driver or conductor; nor shall leave the same
4 on such bridge or road stationary, in such a situation as to
5 obstruct other persons traveling with any carriage or other
6 vehicle.

R. S., c. 26, § 4.

SECT. 5. No person shall travel on any bridge, turnpike or
2 other road, with any sleigh or sled drawn by one or more horses,
3 unless there shall be three or more bells to such horse if but
4 one, or to the foremost horse if more than one.

R. S., c. 26, § 5.

SECT. 6. Every person offending against either of the forego-
2 ing provisions, shall forfeit for each offense not less than one
3 dollar nor more than twenty dollars to the use of the state, to
4 be recovered on complaint of any person aggrieved thereby,
5 before any justice of the peace in the county where the offense
6 shall have been committed, made within sixty days thereafter.
7 Any person injured by any of the offenses or neglects aforesaid,
8 shall also be entitled to recover his damages in an action on the
9 case, to be commenced within one year after such injury.

R. S., c. 26, § 6.

SECT. 7. No driver of any stage coach or other vehicle for
2 the conveyance of passengers for hire shall, when any passenger
3 is within or on such coach or vehicle, leave the horses thereof
4 without some suitable person to take charge and guidance of
5 them, or without fastening them in a safe and prudent manner;
6 and the person offending against this section may be punished by
7 imprisonment not exceeding one month, or by fine not exceeding
8 thirty dollars.

R. S., c. 26, § 7.

SECT. 8. The incorporated proprietors of any bridge, or the
2 directors or agents of the same, may prohibit any person from
3 riding or driving any horse at a pace faster than a walk over
4 such bridge.

R. S., c. 26, § 8.

SECT. 9. The selectmen of any town may prohibit any person
2 from riding or driving any horse at a pace faster than a walk
3 over any bridge covered with plank for the length of fifty feet;
4 such bridge being a part of a highway or town way within the
5 limits of such town. R. S., c. 26, § 9.

SECT. 10. All persons are prohibited from so riding or driving
2 across any bridge erected in whole or in part by the state.
1848, c. 36.

SECT. 11. Any person wilfully riding or driving any horse,
2 contrary to the provisions of either of the three preceding sec-
3 tions, shall forfeit three dollars to be recovered by complaint
4 before any magistrate for the county where the offense is com-
5 mitted, one half to the use of the proprietors of such bridge, or
6 the inhabitants of the town constructing it, and the remainder
7 to the use of the state; provided that a board giving notice of
8 such forfeiture, legibly printed in black letters on a white
9 ground, be kept exposed in a conspicuous place at each end of
10 said bridge; but no person shall be liable to such forfeiture
11 driving after sunset or before sunrise, unless he had actual
12 knowledge of such prohibition. R. S., c. 26, § 10.

SECT. 12. No cart or wagon, drawn by more than two horses
2 or oxen, shall pass over the Mattanawcook road from Milford to
3 Lincoln village, the military road from said village to Houlton,
4 the Aroostook road from said military road to the Aroostook
5 river, the Fish river road from the termination of said Aroostook
6 road to Fort Kent, and the road from Guilford village to Moose-
7 head lake, unless the rims of the wheels thereof, when drawn
8 by more than two horses or two oxen, shall be at least four
9 inches wide; and when drawn by more than four horses or four
10 oxen, they shall be at least five inches wide; and no cart or
11 wagon shall pass over either said roads drawn by more than six
12 horses or six oxen: the foregoing restrictions shall not apply to
13 stage coaches, pleasure carriages, or to any carriage owned by
14 the United States or this state, or to any cart or wagon owned
15 by settlers, in the vicinity of said roads, and used for farming
16 purposes. 1845, c. 155, § 1.

SECT. 13. If any cart or wagon shall pass upon either of said
2 roads, contrary to the provisions of the preceding section, the

3 owner or driver thereof, shall forfeit ten dollars for each offense,
 4 to be recovered by complaint before any justice of the peace of
 5 the county where the offense is committed, with costs, one-half
 6 the forfeiture to the use of the complainant and the remainder
 7 to the use of the state. 1845, c. 155, § 2.

SECT. 14. Any justice of the peace before whom complaint
 2 may be pending according to the provisions of the preceding
 3 section, may also on libel or complaint, issue his warrant to seize
 4 and detain such cart or wagon with the team thereof, found on
 5 either of said roads, having been used by any person in violation
 6 of the provisions of this act, which may be held to respond the
 7 fine and costs to be awarded against such owner or driver.

1845, c. 155, § 3.

Chapter 21.

FERRIES.

- Sect.* 1. No person to keep a ferry without license.
 2. County commissioners may grant licenses and establish tolls.
 3. Not to be established within a mile of another ferry.
 4. Ferryman liable for damages through his neglect.
 5. Ferryman to keep a good boat, and attend.
 6. Penalties for neglect.
 7. Towns to provide ferrymen, if commissioners require.
 8. Ferries between towns to be provided at their joint expense.
 9. Forfeiture, if towns neglect.
 10. Penalty for keeping a ferry without license.
 11. Ferrymen to level ice and repair passago way in winter.
 12. Condition of ferryman's bond.
 13. Forfeiture for neglect to repair passago way.
 14. Prohibition of horse or steau ferries. Exceptions.
 15. Persons authorized to use horse or steau ferries may use other boats.
 16. Penalties for obstructing ferries.
 17. Exception to this liability.
 18. Proprietors of ferries may sink piers.
 19. Mode of recovering forfeitures.

SECT. 1. No person shall keep a ferry, and receive pay, un-
 2 less he shall first obtain a license therefor, from the county
 3 commissioners; and such license may be granted for such time,

4 as the commissioners shall think proper, and they may revoke
5 it, when necessary; excepting where ferries are already estab-
6 lished by law. R. S., c. 27, § 1.

SECT. 2. Said commissioners are hereby authorized to grant
2 licenses to such persons, and for such places, as they shall judge
3 suitable; excepting where ferries are already established. They
4 shall also establish the fares or tolls, at each ferry by them
5 licensed, for passengers, beasts, vehicles, or other things, there
6 transported; always having regard to the comparative length
7 and situation of each ferry, and the number of persons passing
8 the same; and, in all cases, taking a bond from each person
9 licensed, as a ferryman, in such penal sum as they think neces-
10 sary, to the treasurer of the state, with sufficient sureties, for
11 the faithful performance of his duties. R. S., c. 27, § 2.

SECT. 3. When a ferry has been, or may be, established by
2 the legislature, on which a horse boat or steamboat is to be run,
3 the county commissioners shall not have power to establish
4 another ferry on the same river within one mile above or below
5 the place of such horse or steam ferry. 1842, c. 16.

SECT. 4. Any person, who shall sustain an injury, in his
2 person or property, by the negligence or default of any ferry-
3 man, may have a remedy, in an action upon the bond required
4 in the section preceding, and the like proceedings may be had,
5 as in the case of actions brought on the bonds of sheriffs.

R. S., c. 27, § 3.

SECT. 5. Every keeper of a ferry shall keep a safe boat, or
2 boats, in good repair, suitable to the waters where they are to
3 be used; and give ready and due attendance on passengers, on
4 all occasions, according to the regulations established for his
5 ferry. R. S., c. 27, § 4.

SECT. 6. The keeper of every such ferry, for every neglect
2 of keeping a boat or boats according to such regulations, shall
3 forfeit twenty dollars, and, for every neglect of such attendance,
4 he shall forfeit one dollar, to him who shall sue therefor, in an
5 action of debt. He shall, in each case, be further liable, in an
6 action on the case, to the party injured, to the amount of his
7 damages. R. S., c. 27, § 5.

SECT. 7. Whenever the commissioners of any county shall judge it necessary to establish a ferry, and no person shall appear to keep the same for the stated profits thereof, the town or towns where such ferry may be, shall provide one or more suitable persons to keep, and to attend the same, at such place, and in such times of the year, as the said commissioners shall order; which persons shall be licensed, as aforesaid. The expense of maintaining such ferry, beyond the amount received for tolls, shall be paid by such town or towns. R. S., c. 27, § 6.

SECT. 8. When such ferry shall be established, as mentioned in the preceding section, between two towns, they shall maintain the same, either jointly, or alternately, and in such proportions as the commissioners shall order. R. S., c. 27, § 7.

SECT. 9. Any town, neglecting to maintain such ferry, or their proportion of the same, as provided in the two preceding sections, shall forfeit for each month's neglect, forty dollars.

R. S., c. 27, § 8.

SECT. 10. If any person shall keep a ferry, contrary to the provisions of the first section of this chapter, or shall transport passengers over or across any stated ferry, and demand or receive pay therefor, he shall forfeit, for each day he shall keep such ferry, or for each time he shall transport passengers as aforesaid, the sum of four dollars; and shall be further liable, in a special action on the case, to pay such damages as shall accrue thereby to the person authorized to keep any such ferry at or near the place where the offence is committed.

R. S., c. 27, § 9.

SECT. 11. At the several ferries in this state where the tide ebbs and flows, and the waters, at times, may be so frozen as to admit a passage for travelers over the ice, it shall be the duty of the keepers of such ferries so to level the ice, and clear, repair and amend the passage way to and over the same, from day to day, as that the same may be, at all such times, safe and convenient for travelers, with their teams, sleds and sleighs, at the proper charge and expense of the county in which such ferry may be: or such passage way may be made from any public landing, which may be sufficiently near to be conveniently connected with the opposite ferry landing. R. S., c. 27, § 10.

SECT. 12. In the bond, taken pursuant to the provisions of
2 the second section of this chapter, the county commissioners
3 shall further provide for the faithful performance of the duties
4 required by the section preceding; and the commissioners shall
5 order a meet compensation for such services, when performed,
6 from the treasury of the county; or the commissioners may, if
7 they judge it expedient, contract with some other person to
8 perform the duties provided in the preceding section; in which
9 case, they shall give notice to the ferryman before the closing
10 of the river; and after such notice, and during the continuance
11 of such contract, the duties and liabilities of such ferryman, in
12 relation to such passage way, shall be transferred to the person
13 with whom the contract is made. R. S., c. 27, § 11.

SECT. 13. Every such ferryman, or other person, contracted
2 with as provided in the preceding section, as the case may be,
3 for each day's neglect of the duties required by the eleventh
4 section of this chapter, shall forfeit ten dollars; and shall be
5 further liable to pay, in an action on the case, all such special
6 damages as any person shall sustain by such neglect.

R. S., c. 27, § 12.

SECT. 14. No person, keeping a ferry under a license as
2 aforesaid, shall, by virtue of such license, use, employ or put in
3 operation, at such ferry, any boat propelled or worked by
4 steam, horse, or team power, under penalty of forfeiture of his
5 license, and to be further liable to pay such damages, as may
6 accrue thereby, to any person or corporation. Provided, that
7 this prohibition shall not apply to any such ferryman who had
8 built, purchased, or had in operation any such steam, horse, or
9 team boat, at his ferry, on the sixth day of March, in the year
10 eighteen hundred and thirty. R. S., c. 27, § 13.

SECT. 15. Any person or corporation, by law authorized and
2 required to keep, use and employ horse, steam or team boats, at
3 any ferry, may, notwithstanding the requirements of their
4 license, in the night or at any other time when the passage of
5 such ferry would be dangerous for said boats, use any other kind
6 of boats that shall be safe and convenient for the transportation
7 of passengers and whatever else he or they may be liable to
8 transport. R. S., c. 27, § 14.

SECT. 16. No person, except whilst necessarily obliged in the
2 night time or by stress of weather, shall anchor, moor or deposit
3 any vessel, boat, raft or water craft in any river at a place where
4 there is a ferry authorized by law; nor at any time shall place
5 any weir or other obstacle in such manner as to obstruct the
6 passage of the ferry boat in its ordinary routes; under penalty
7 of forfeiting twenty dollars to the use of the proprietors of the
8 ferry if the offense be committed wilfully, or if the offense be
9 committed inadvertently, and the person committing the same
10 shall neglect or refuse to remove such vessel, boat, raft, water
11 craft or other obstruction within thirty minutes, if practicable,
12 after notice of the improper position of the same, to be recovered
13 in a special action on the case. R. S., c. 27, § 15.

SECT. 17. No person shall be liable to the penalty of the
2 preceding section, for anchoring his vessel, boat or raft for the
3 purpose of hauling into any wharf, pier, landing or dock, if he
4 shall not be guilty of unreasonable hindrance to the business of
5 the ferry by delay or willful mismanagement in so doing.

R. S., c. 27, § 16.

SECT. 18. The proprietors of any ferry may sink one or more
2 piers near their ferry ways, either above or below the same on
3 either side of the river, for the purpose of steadying or guiding
4 their boats in times of high winds or freshets; provided, that no
5 such pier shall be of greater length or breadth than twelve feet,
6 nor so sunk as to injure the proprietors of any wharf, pier or
7 landing, at which vessels may previously have taken in or dis-
8 charged their freights. R. S., c. 27, § 17.

SECT. 19. Any forfeiture mentioned in this chapter not other-
2 wise appropriated, shall accrue to the use of the state; and may
3 be recovered by indictment in the supreme judicial court in the
4 county where the same may have been incurred.

R. S., c. 27, § 18.

Chapter 22.**WORK HOUSES.**

- Sect.* 1. Towns may provide work houses. Persons liable to commitment.
2. Towns may choose overseers of such houses.
 3. Duties of such overseers.
 4. Contiguous towns may unite in building work houses.
 5. Joint board of overseers, and their powers in such case.
 6. How chosen, and mode of proceeding.
 7. Quarterly and other meetings of such board.
 8. Choice of officers.
 9. By-laws, when and how made.
 10. Duties and proceedings.
 11. Proportion in which expenses are to be paid.
 12. Mode of recovery from delinquent town.
 13. Overseers may order commitment of certain persons.
 14. Neither town may commit more than its proportion.
 15. Idlers having no settlement may be committed.
 16. Delinquent town may be deprived of the right to occupy the house.
 17. Either town may furnish additional materials for labor.
 18. Master to keep a registry.
 19. Controversy between master and overseers, how determined.
 20. Each town liable for its own commitments. Mode of discharge.
 21. Persons committed to be kept employed.
 22. Work houses may be discontinued.
 23. Certain special laws not affected by this chapter.

SECT. 1. Any town may erect or provide a work house, for the employment and support of persons of the following description, that is to say: all poor and indigent persons, that are maintained by, or receive alms from, the town; all persons, who, being able of body and not having estate or means otherwise to maintain themselves, refuse or neglect to work; all persons who live a dissolute and vagrant life, and exercise no ordinary calling or lawful business sufficient to gain an honest livelihood; and all such persons as spend their time and property in public houses, to the neglect of their proper business, or by otherwise mispending what they earn, to the impoverishment of themselves and their families, are likely to become paupers.

R. S., c. 28, § 1.

SECT. 2. Every town having a work house may, at its annual meeting, choose three, five, seven or more overseers of such work house, who shall have the inspection and government thereof, with power to appoint a master and needful assistants

5 for the more immediate care and superintendence of the persons
6 received or employed therein. R. S., c. 28, § 2.

SECT. 3. The said overseers, as occasion shall require, shall
2 hold meetings on the business of their office. At their meetings
3 they may make needful orders and regulations for such house to
4 be binding until the next town meeting, when the same shall be
5 submitted to the consideration of the inhabitants; and such as
6 shall be approved at said meeting shall remain in force until
7 revoked by the town. R. S., c. 28, § 3.

SECT. 4. Any two or more contiguous towns that shall so
2 agree, may, at their joint charge and for their common benefit,
3 erect or provide a work house for the purposes before mentioned
4 in this chapter, and may purchase land for the use of such
5 house. R. S., c. 28, § 4.

SECT. 5. The ordering, governing and repairing of any work
2 house, erected or provided at the joint expense of two or more
3 towns, and the appointing a master and necessary assistants, and
4 the removing them from office for sufficient cause, shall be vested
5 in a joint board of overseers, to be chosen as provided in the
6 next section. R. S., c. 28, § 5.

SECT. 6. Each of said towns at their annual meeting shall
2 choose three members of said board, unless all said towns shall
3 agree on a different number. Vacancies in said board may be
4 supplied by the town in which it happens at any legal meeting.
5 The members appointed by any one or more of said towns, shall
6 have power to proceed in all affairs of said house, notwithstand-
7 ing any one or more of the towns interested shall have neglected
8 to furnish their proportion of members. R. S., c. 28, § 6.

SECT. 7. There shall be stated quarterly meetings of all the
2 said overseers, on the first Tuesday of January, April, July and
3 October, to be held at the work house, in order to inspect the
4 management, and direct the business thereof. Besides the
5 quarterly stated meetings, other meetings, to be held at the
6 work house, may be called by the overseers of any town con-
7 cerned; they giving notice of the time and occasion thereof to
8 the other members of said board, in such manner as shall have
9 been agreed upon at any stated meeting thereof.

R. S., c. 28, § 7.

SECT. 8. The said joint board of overseers, when duly assembled, may choose a moderator. At their first general meeting, after their election, they shall appoint a clerk; who shall be duly sworn, and shall record all votes and orders of the said board. R. S., c. 28, § 8.

SECT. 9. The said joint board of overseers, at any general quarterly meeting, composed at least of one half of their whole number, may make all reasonable by-laws and orders, not repugnant to the laws of the state, respecting the affairs of the work house under their charge. R. S., c. 28, § 9.

SECT. 10. The said joint board of overseers may also, at any such meeting, agree with the master and assistants, and order meet allowance for their care and services; but all other matters, relating to said work house, may be acted upon at any other meeting, duly notified, if one third part of said board are present. R. S., c. 28, § 10.

SECT. 11. The yearly compensation of the master and assistants, in any work house jointly provided as aforesaid, in addition to the allowance provided in this chapter, and the expense of keeping the house in repair, shall be paid by the several towns interested, in proportion to the state tax last assessed upon them, when the expense may have been incurred; or in such other proportion, as all the towns interested shall agree upon. R. S., c. 28, § 11.

SECT. 12. If any town shall refuse or neglect to advance, or reimburse, its proportion of such allowance, or other charges mentioned in this chapter, after they shall have been stated, and adjusted by the joint board of overseers, the same may be recovered of such delinquent town, in an action to be brought in the name of any person or persons whom the overseers shall, in writing, appoint for that purpose. R. S., c. 28, § 12.

SECT. 13. Any two or more overseers in any town having a work house, either in severalty or in conjunction with other towns, may, by order under their hands, commit to such house, subject to the regulations thereof, any person residing in their town who is declared in this chapter to be liable to be sent there. Such order for commitment, directed to any constable of the same town, may be served by the same constable. R. S., c. 28, § 13.

SECT. 14. No greater number of persons, belonging to any
2 town, shall be received into a work house, jointly provided as
3 aforesaid, than such town's proportion of such house, allotted
4 them, can accommodate, when the receiving of them will exclude
5 or incommode such as belong to other towns interested.

R. S., c. 28, § 14.

SECT. 15. When any person, not having a legal settlement in
2 any town in this state, shall become idle or indigent, he may be
3 committed to the work house provided for the use of said town,
4 to be employed, if able to labor, in the same manner, and subject
5 to the same rules, as the other persons there committed.

R. S., c. 28, § 15.

SECT. 16. If any town, jointly interested in any work house,
2 shall refuse or neglect to provide its proportion of the necessary
3 expenses of such house, or of the materials, implements or other
4 means for carrying on the work there required, according to
5 their agreement, or as shall be duly directed by the overseers,
6 such town shall be deprived of the privilege of sending any person
7 thither, until it shall comply with such agreement or direction.

R. S., c. 28, § 16.

SECT. 17. In addition to the proportion of the expenses and
2 other things, mentioned in the preceding section, to be furnished
3 jointly, each of such towns may furnish such other materials,
4 and implements, and means of work, as the overseers of such
5 town shall determine, for the employment of any person by them
6 committed to such house; and the master of the house shall
7 receive such materials, implements and means of work, and keep
8 them separate from those of other towns; and shall be account-
9 able to any such town for the prime cost, and all profits and
10 earnings, made by the labor of those persons, under his care,
11 belonging to such town.

R. S., c. 28, § 17.

SECT. 18. The master of such work house shall keep a register
2 of the names of the persons committed, and of the towns to
3 which they belong, with the time of their being received into,
4 and discharged therefrom, and of their earnings; and the same
5 shall be open to the inspection of the overseers, on request.

R. S., c. 28, § 18.

SECT. 19. All controversies between the master of such house
2 and the overseers of any town, relating to his official transac-
3 tions, may be determined by the overseers of the house, at a
4 general or quarterly meeting. R. S., c. 28, § 19.

SECT. 20. No town shall be chargeable for the expenses of
2 any person, committed to said house, who was not sent thither
3 by overseers, belonging to such town; nor shall any person, duly
4 committed to such house, be discharged therefrom, except by
5 written order of the overseers of his town, or by vote of the
6 board of overseers of said house, at a quarterly meeting, or by
7 the supreme judicial court, held in the same county, upon
8 application for that purpose. R. S., c. 28, § 20.

SECT. 21. Every person, duly committed to such work house,
2 if able to work, shall be kept diligently employed, during the
3 term of his commitment. For idleness, obstinacy or disorderly
4 conduct, he shall be liable to such punishment, as may be
5 provided for, by the standing regulations of the house, authorized
6 in this chapter, and not repugnant to the laws of the state.

R. S., c. 28, § 21.

SECT. 22. Any work house, erected, or provided as aforesaid,
2 may be discontinued, or applied to any other use, whenever the
3 town or towns concerned shall find that their circumstances
4 require it, and shall agree thus to do. R. S., c. 28, § 22.

SECT. 23. Nothing, contained in this chapter, shall be con-
2 structed to affect any powers and privileges, heretofore granted
3 to any towns, or the overseers of the poor thereof, by any act
4 specially relating to work houses, erected in such towns.

R. S., c. 28, § 23.

Chapter 23.

FENCES AND COMMON FIELDS.

Sect. 1. What are legal fences.

2. To be maintained equally by adjoining occupants.

3. If either neglect, proceedings of fence viewers on application.

4. Complainant may recover double compensation in certain cases.

5. Proceedings for division of partition fences.

- Sect. 6.* Each party bound to build the part assigned to him.
7. To be kept in repair.
 8. Fences may vary from the dividing line in certain cases.
 9. Assignment of parts before fence is built.
 10. Occupant ceasing to improve, not to remove his fence in case the other will purchase.
 11. Liability if owner beginning to improve land lying in common.
 12. If fence be on town line, how divided.
 13. Division of fences, when binding.
 14. Provisions not applicable to house lots, nor agreements.
 15. Inclosure of lots lying together by a general fence.
 16. Manner of calling meetings of proprietors.
 17. How notice is to be given.
 18. How they may vote.
 19. May raise and assess money. Abatements.
 20. Choice of officers.
 21. Clerk to issue warrant to collect taxes.
 22. Apportionment of the general fence.
 23. Proprietors not liable, who do not occupy their lots.
 24. Apportionment of expenses according to interest.
 25. Manner of repairing fences of delinquents.
 26. Delinquent liable for double the expense.
 27. Proceedings if any part be suddenly destroyed.
 28. Choice of field drivers and their powers.
 29. No proprietor to put in stock contrary to regulations. Penalty.
 30. Remedy if a proprietor be injured by beasts of a stranger.
 31. Lines between proprietors to be run once in two years.
 32. Association may be discontinued.
 33. Certain proprietors not subject to these regulations.
 34. Waste portions of lots excluded from estimates and assessments.
 35. Proceedings on application of three or more to be set off.
 36. Proceedings for organizing to inclose a common field.
 37. After establishment of a common field proprietors to proceed as provided in this chapter.
 38. Penalty if fence viewers neglect their duty.
 39. Fees for services. Penalty for neglect of payment.

SECT. 1. All fences four feet high and in good repair, consisting of rails, timber, boards, or stone walls, and brooks, rivers, ponds, creeks, ditches and hedges, or other things, which in judgment of the fence viewers having jurisdiction thereof are equivalent thereto, shall be accounted legal and sufficient fences.

R. S., c. 29, § 1.

SECT. 2. The respective occupants of lands inclosed with fences, shall maintain partition fences between their own and the next adjoining inclosures, in equal shares, so long as both parties continue to improve the same.

R. S., c. 29, § 2.

SECT. 3. In case any party shall neglect or refuse to repair
2 or rebuild any such fence, which of right he ought to maintain,
3 the aggrieved party may complain to two or more fence viewers
4 of the town where the land is situated, who, after due notice to
5 such party, shall proceed to survey the same, and if they shall
6 determine that the fence is insufficient, they shall signify the
7 same in writing to the delinquent occupant of the land, and
8 direct him to repair or rebuild the same within such time as
9 they shall judge reasonable, not exceeding thirty days. If the
10 fence shall not be repaired or rebuilt accordingly, it shall be
11 lawful for the complainant to make or repair such fence.

1852, c. 234, § 1.

SECT. 4. When the complainant shall have completed such
2 fence, and the same shall have been adjudged sufficient by two
3 or more of the fence viewers, and the value thereof, together
4 with the fence viewers' fees, certified under their hands, he may
5 demand and recover, either of the occupant or owner of the land
6 where the fence was deficient as aforesaid at his election, double
7 the value and fees thus ascertained; and in case of neglect or
8 refusal to pay the same for one month after demand, the com-
9 plainant may sue for and recover the same by a special action
10 on the case, with interest at the rate of one per cent. a month.

R. S., c. 29, § 4.

SECT. 5. When the occupants or owners of adjacent lands
2 disagree respecting their rights in partition fences, and their
3 obligation to maintain the same, on application of either party
4 to two or more fence viewers of the town where the lands lie,
5 said fence viewers, after reasonable notice to each party, may,
6 in writing under their hands, assign to each party his share
7 thereof, and limit the time in which each party shall build or
8 repair his part of the fence, not exceeding thirty days, as pro-
9 vided in the third section of this chapter. Such assignment
10 and all other assignments of proprietors of partition fences,
11 provided for in this chapter, being recorded in the town clerk's
12 office, shall be binding upon the parties, and they shall be obliged
13 thereafter to maintain their part of said fence. If such fence
14 shall have been already built and maintained by the parties in
15 unequal proportions, and the fence viewers shall adjudge the

16 same to be good and sufficient, they may, after notice as aforesaid
17 in writing under their hands, award to the party who may have
18 built and maintained the larger portion the value of such excess,
19 to be recovered in an action on the case against the other party,
20 if not paid within six months after demand. 1852, c. 234, § 2.

SECT. 6. In case any of the parties shall refuse or neglect to
2 build and maintain the part thus assigned them, the same may
3 be done by the aggrieved party in the manner before provided in
4 this chapter; and he shall be entitled to the double value and
5 expenses, ascertained and to be recovered in like manner as
6 aforesaid. R. S., c. 29, § 6.

SECT. 7. All division fences shall be kept in good repair
2 throughout the year, unless the occupiers of adjacent lands
3 shall otherwise agree. R. S., c. 29, § 7.

SECT. 8. When from natural impediments, in the opinion of
3 the fence viewers having jurisdiction of the case, it may be
4 impracticable or unreasonably expensive to build a fence on the
5 true line between the adjacent lands, if the occupants disagree
6 respecting the position of their partition fence, then said fence
7 viewers, on application of either party as provided in the fifth
8 section of this chapter, and after notice to both parties, and on
9 view of the premises, may determine by a certificate under their
10 hands, communicated to each party, on which side of the true
11 line, and at what distance, or whether partly on one side and
12 partly on the other, and at what distances, as they shall see
13 cause, the fence shall be built and maintained, and in what pro-
14 portions, under all the circumstances of the case, by the respective
15 parties; and either party may have the same remedy against the
16 other as is herein before provided in regard to assignments of
17 partition fences made by fence viewers. R. S., c. 29, § 8.

SECT. 9. When adjacent lands have been occupied in common,
2 without a partition fence, and either party desires to occupy his
3 own in severalty, or when a fence running into the water is
4 necessary to be made, and the parties liable to build and maintain
5 the same disagree, either party may have the line divided on
6 application to the fence viewers of the town; who shall proceed
7 in like manner as is provided for the disagreement mentioned in
8 the fifth section of this chapter; excepting that the fence viewers

9 may allow a longer time than thirty days for building the fence
10 if they think proper, having regard to the season of the year.
11 In other respects the remedy for the aggrieved party shall be
12 the same as is provided in the case aforesaid. R. S., c. 29, § 9.

SECT. 10. When one party shall cease to improve his land,
2 or shall lay open his inclosure, he shall not take away any part
3 of the partition fence, belonging to him, and adjoining to the
4 next inclosure improved, provided, the owner or occupant
5 thereof will allow, and pay therefor, so much, as two or more
6 fence viewers shall, on due notice to both parties, determine to
7 be the reasonable value of such part of the fence.

R. S., c. 29, § 10.

SECT. 11. Whenever any land, which has lain uninclosed,
2 shall be afterwards inclosed, or shall be used for pasturing, the
3 occupant or owner thereof shall pay for one half of each partition
4 fence, standing upon the line, between his land and the inclos-
5 ures of any other occupant, or owner, the value thereof to be
6 ascertained in writing, in case they shall not agree between
7 themselves, by two or more of the fence viewers of the same
8 town wherein such partition fence stands; and in case such
9 occupant or owner, after the value has been so ascertained by
10 the fence viewers, on notice to him, shall neglect or refuse, for
11 thirty days after demand made, to pay for one half of the
12 partition fence, the proprietor of the fence may maintain, in form
13 aforesaid, an action for such value, and the costs of ascertaining
14 the same.

R. S., c. 29, § 11.

SECT. 12. In all cases, where the line, upon which a partition
2 fence is to be made, or to be divided, is the boundary line
3 between two or more towns, or partly in one town, and partly
4 in another town, a fence viewer shall be taken from each town.

R. S., c. 29, § 12.

SECT. 13. In all cases where a division of fence between the
2 owners of improved lands, has been or shall be made, either by
3 fence viewers, or by the written agreement of the parties,
4 recorded in the office of the clerk of the town where such lands
5 are situate, the several owners of such lands, shall erect and
6 support such fences agreeably to such division; provided, that
7 if any person shall lay his lands common, and determine not to

8 improve any part of the same adjoining the fence, divided as
9 aforesaid, and shall give six months notice to all occupants of
10 adjoining lands, he shall not be required to maintain such fence
11 during the time his lands so lie common and unimproved.

1852, c. 234, § 3.

SECT. 14. Nothing in this chapter contained, shall extend to
2 house lots, the contents of which do not exceed half an acre; but
3 if the owner of such lot improve the same, the owner of the
4 adjacent land shall be compellable to make and maintain one
5 half of the fence between them, whether he improve or not; nor
6 shall the provisions of this chapter make void any written
7 agreement made, or to be made, respecting public fences.

R. S., c. 29, § 14.

SECT. 15. When several distinct lots or pieces of land are
2 inclosed and fenced, in one common field, or when all the
3 proprietors of such land shall agree to inclose them in that
4 manner, the said proprietors may hold regular meetings, at such
5 times as they shall judge proper, make such rules for managing
6 their common concerns, and adopt such equitable modes of
7 improvement, as their common interest may require; but in all
8 other respects, each proprietor may, at his own expense,
9 inclose, or manage and improve his own land, as he shall think
10 best; but he shall, nevertheless, maintain his proportion of
11 fence inclosing the general field.

R. S., c. 29, § 15.

SECT. 16. Upon the application of any two or more of the
2 said proprietors to any justice of the peace for the county where
3 such land lies, he shall issue his warrant to one of the appli-
4 cants, or to the clerk of the proprietors, requiring him to call a
5 meeting of the proprietors, and expressing in the warrant the
6 time, place and purpose of the meeting.

R. S., c. 29, § 16.

SECT. 17. Notice of the meeting shall be served at least
2 fourteen days previous to the time appointed, when all the
3 proprietors reside in the town or plantation where the land lies,
4 by reading the warrant to each proprietor, or giving to him in
5 hand, or by leaving a copy at his usual place of abode, if the
6 proprietors of said land have not been previously organized for
7 the aforesaid purpose, or if no other mode of notice has been
8 fixed by their standing rules; and, in such case, should one or

9 more of the proprietors reside without the town or plantation,
10 notice shall be given to such person by publishing a copy of
11 said warrant in some newspaper printed in the county, or in the
12 state paper, three weeks successively, the last publication to be
13 at least fourteen days before the time appointed. When the
14 standing rules of the proprietors determine the mode of serving
15 notices for their meetings, that mode may be observed in service
16 of said warrant at the election of the party serving the same.

R. S., c. 29, § 17.

SECT. 18. At all meetings of the said proprietors, each one
2 may vote according to the relative amount or value of his
3 interest, when known; when not known, they shall all vote
4 equally, and absent proprietors may vote by proxy, authorized
5 in writing.

R. S., c. 29, § 18.

SECT. 19. The proprietors may raise money from time to
2 time for defraying their common charges and for managing their
3 affairs; which money shall be assessed upon the several proprie-
4 tors in proportion to their respective interests, by the assessors
5 hereinafter provided for. Any person aggrieved by such assess-
6 ment, may apply to the county commissioners, who may abate
7 his part of the same, in whole or in part, if they see cause.

R. S., c. 29, § 19.

SECT. 20. The said proprietors may, from time to time, at
2 their annual or other meeting duly notified, choose a clerk,
3 three or five assessors, a collector, and such other officers as
4 they shall find necessary; all of whom shall continue in office
5 until removed by the proprietors, or until others are chosen and
6 qualified in their stead. The clerk and assessors shall be sworn
7 to the faithful discharge of their duty.

R. S., c. 29, § 20.

SECT. 21. The clerk of the proprietors shall issue his warrant
2 to the collector, requiring him to collect all sums so assessed,
3 and to pay over the same to the clerk or other proper officer,
4 according to the orders of the proprietors; and the collector
5 shall collect the said sums in the same manner as collectors of
6 towns are authorized to collect town taxes.

R. S., c. 29, § 21.

SECT. 22. The whole fence inclosing such general field, shall,
2 so far as it may be found convenient, be apportioned amongst
3 the proprietors according to the number of acres held and

4 cultivated, or otherwise used by each one; and the part to be
5 maintained by each proprietor shall be set out and assigned to
6 him by any two or more fence viewers of the town, unless the
7 proprietors shall agree on an apportionment of the fence among
8 themselves. In all cases, the proportion of fence so assigned to
9 each proprietor shall be recorded by the clerk in the books of
10 the proprietors; and where there is no such clerk, by the clerk
11 of the town on the town records. R. S., c. 29, § 22.

SECT. 23. If any proprietor of land in such general field shall
2 decline to cultivate his land, or to use it for pasturing, and shall
3 give written notice of his intention to the clerk of the proprie-
4 tors, he shall not be required to maintain any part of the fence,
5 nor to pay any tax or assessment on account of his land so long
6 as he shall neglect to cultivate or use it as aforesaid.

R. S., c. 29, § 23.

SECT. 24. The expense of apportioning the fence, and also
2 for making and maintaining such part thereof as cannot con-
3 veniently and justly be assigned to any one proprietor, shall be
4 borne by all the proprietors who are liable to be taxed, in pro-
5 portion to their respective interests; and the part assigned to
6 each proprietor shall be made and maintained by himself, so long
7 as he shall use his part of the said general field for pasturing,
8 planting, mowing or otherwise. R. S., c. 29, § 24.

SECT. 25. If any part of the fence assigned to any of the
2 proprietors shall become deficient, and if he shall not repair it
3 within three days after notice of such deficiency, given to him
4 or his tenant by a fence viewer of the town, it may be repaired
5 by any other of the said proprietors; and such repairs may be
6 examined by any two or more fence viewers, and if adjudged by
7 them to be sufficient, they shall ascertain the cost of the repairs,
8 and make a statement thereof, and of the amount of their fees,
9 in writing under their hands. R. S., c. 29, § 25.

SECT. 26. The person, making such repairs, may demand of
2 the proprietor, who was bound to make the same, or of his
3 tenant, double the costs of the repairs and the fees aforesaid,
4 thus ascertained; and if the same be not paid, within one month
5 after notice and demand thereof, he may recover the same, in an
6 action on the case. R. S., c. 29, § 26.

SECT. 27. If any part of the fence shall be suddenly blown
 2 down, or carried away by any flood or tempest, at a time when
 3 the crops in the field shall be thereby exposed to immediate
 4 destruction or injury, the proprietor, to whom that part of the
 5 fence was assigned, shall be bound to repair the same, within
 6 twenty-four hours after notice thereof, given him by a fence
 7 viewer. If he shall fail so to do, the fence may be repaired by
 8 any other proprietor; and such proprietor may recover double
 9 the costs of the repairs and fees, in the same manner as is
 10 provided in the preceding section. Said fence viewers may
 11 allow a longer time than twenty-four hours, if they think proper.

1852, c. 234, § 4.

SECT. 28. The proprietors may choose one or more field
 2 drivers, who shall have and exercise the same powers, with
 3 respect to the general fields, as are exercised by field drivers
 4 chosen by a town.

R. S., c. 29, § 28.

SECT. 29. If any proprietor shall put into the general field
 2 any horses, cattle or other beasts, contrary to the regulations of
 3 the proprietors, either by putting in more than the number
 4 allotted him, or before the day fixed for that purpose, or by
 5 keeping them therein longer than the time limited, he shall be
 6 considered a trespasser; and his beasts may be impounded, as
 7 taken doing damage, as if he owned no land in the general field.

R. S., c. 29, § 29.

SECT. 30. If any proprietor shall be injured in his lands by
 2 the beasts of any stranger, he shall have the same remedy there-
 3 for, as if his land had been inclosed, and used separately. When
 4 damage happens to any proprietor in such common field, through
 5 the insufficiency of the fence of a co-proprietor, the owner or
 6 occupant of the land, to which such insufficient fence belongs,
 7 shall be liable to answer and make good all such damage.

R. S., c. 29, § 30.

SECT. 31. Every proprietor of land, lying unfenced in a gen-
 2 eral field, shall once in every two years, if requested by the
 3 owner of the adjoining land, run lines with such owner between
 4 their lots, and establish boundaries by sufficient mete stones, at
 5 their joint expense; and if he shall fail so to do, after at least
 6 six days notice by the adjoining owner, he shall forfeit two dol-

7 lars, to be recovered by such adjoining owner to his own use,
8 in an action on the case. R. S., c. 29, § 31.

SECT. 32. A major part in interest, in any common or gen-
2 eral field, occupied under the provisions of this chapter, at any
3 legal meeting called for the purpose, may discontinue their asso-
4 ciation; said discontinuance not to take effect until six months
5 after the vote for that purpose, unless all the proprietors consent
6 to some earlier period. R. S., c. 29, § 32.

SECT. 33. Nothing, contained in this chapter, shall prevent
2 the proprietors of any such common field fenced, who had been
3 duly organized, previously to February twenty-fourth, eighteen
4 hundred and twenty-one, from making and maintaining their
5 fences, according to rules and orders, before that date agreed on
6 by them, at any legal meeting. R. S., c. 29, § 33.

SECT. 34. Portions of common fields, inclosed under the pro-
2 visions of this chapter, which are unoccupied and unimproved
3 by their owners, on account of their being rocky or barren, shall
4 be excluded in all estimates for assessments under section nine-
5 teen, or for apportionments of fence, under section twenty-two
6 of this chapter. R. S., c. 29, § 34.

SECT. 35. Any three or more proprietors of lots in a general
2 field, lying within one general fence or inclosure, may, by a
3 petition in writing to the proprietors of such field, at any meet-
4 ing of said proprietors, legally warned for that purpose, request
5 to have their said lots, either alone, or jointly with any other
6 lots in said field, divided from the remainder of the field, in or-
7 der to be inclosed in one common fence, and to be occupied by
8 them as an entire field, separately from the other proprietors of
9 the general field; and, if the majority of the proprietors, in in-
10 terest, who may be present at such meeting, shall withhold, or
11 refuse their assent to such division, the county commissioners
12 may, upon the like application, appoint three or five disinter-
13 ested and suitable persons, within the county, where such gen-
14 eral field is situated, to be a committee, to make such division
15 thereof, if the said committee shall deem it expedient; and to
16 assign to each field, its proportion of the partition fence, which
17 shall become necessary by reason of such division, to be kept up
18 and maintained by the proprietors of said general fields, respec-

19 tively: and the said committee shall, as soon as may be after
20 their appointment, make return of their doings under their
21 hands to the said county commissioners; and, after the accept-
22 ance thereof by said commissioners, the fields, so divided, shall
23 be deemed separate general fields, and the proprietors of the
24 field, so set off, and the remaining proprietors of the original,
25 respectively, shall be distinct and separate proprietary bodies;
26 having all the like powers and privileges, and subject to all the
27 duties and liabilities, as the proprietors of the original general
28 field, before such division was made; *provided*, that no order
29 for such division shall be made, nor any committee appointed,
30 as aforesaid, until the other proprietors shall have had notice of
31 the petition for such division; which notice shall be given by
32 serving the clerk of the proprietors with a copy of the petition,
33 thirty days at least before such order or appointment shall be
34 made. R. S., c. 29, § 35.

SECT. 36. When the major part, in interest, of the proprietors
2 of any tract of land, consisting of five or more allotments, shall
3 be desirous of inclosing them, in one general field, they may
4 apply to the district court in the county, where such land lies,
5 and when such land lies in different counties, then to the
6 supreme judicial court, to be holden in either; and said court
7 may order such notice to all parties interested, as they may
8 deem reasonable, and after hearing the parties who may appear,
9 may, if they see cause, order the land to be so inclosed.

R. S., c. 29, § 36.

SECT. 37. After a common or general field shall be so
2 established by order of court, the further proceedings in relation
3 thereto shall be the same as are provided when a field is so
4 inclosed by the consent of all the proprietors; and the proprietors
5 shall be entitled to all the privileges, and subject to all the
6 duties, before provided in this chapter, with respect to the
7 proprietors of fields inclosed by consent. R. S., c. 29, § 37.

SECT. 38. Any fence viewer, who shall, when requested,
2 unreasonably neglect to view any fence, or to perform any other
3 duties required of him in this chapter, shall forfeit three dollars
4 to any person who shall sue for the same within forty days

5 after such neglect. He shall also be liable for all damages to
6 the party injured. R. S., c. 29, § 38.

SECT. 39. Each fence viewer shall be paid, by the person
2 employing him, at the rate of one dollar a day, for the time he
3 shall be so employed. If the party liable shall neglect to pay
4 the same, for thirty days after demand, each of such fence
5 viewers shall be entitled to recover double the amount, in an
6 action on the case: and they may be mutually witnesses for or
7 against each other. R. S., c. 29, § 39.

Chapter 24.

POUNDS, AND IMPOUNDING BEASTS.

- Sect.* 1. Each town to keep a pound.
2. Penalty for neglect.
 3. Penalty for beasts going at large. May be impounded.
 4. Penalty for ungelded horses and rams going at large.
 5. Towns may permit noat beasts to go at large.
 6. Porsons injured by beasts may sue for damages or distrain.
 7. Pound-keepers.
 8. Towns responsible for doings of pound-keepers, and pound-keepers required to give bond.
 9. Pound-keepers to keep book of records.
 10. To restrain beasts impounded.
 11. Impounder to furnish certificate of the cause of impounding.
 12. Pound-keeper not to deliver beasts till damages and costs are paid.
 13. Proceedings, if claimant object to amount demanded.
 14. Proceedings when beasts are taken up as estrays.
 15. Penalty for not delivering estray to pound-keeper.
 16. Pound-keeper to advertise.
 17. If the owner does not redeem and the beasts are not replevied in ten days, pound-keeper to advertise for sale.
 18. Sale to be postponed, if owner does not live in town, or the beasts have strayed from a drove, and notice to be published.
 19. When damages are claimed, pound-keeper to have an appraisal.
 20. Disposal of proceeds of sale.
 21. Owner may redoem at any time before sale.
 - 22, 23. Replevin of boasts impounded.
 24. Resene and punishment thereof.
 25. Pound breach and punishment thereof.
 26. Masters and parents liable for minors.

Sect. 27. Restriction as to defense in such cases.

23. Limitation of actions for forfeitures.

29. Pound-keeper's fees.

30. Compensation to impounder.

31. Expense of keeping beasts impounded.

SECT. 1. Each town shall constantly keep and maintain, in
2 such place therein, as the inhabitants thereof shall direct, one
3 or more sufficient pounds for the reception of such beasts, as
4 may be, by law, liable to be impounded. R. S., c. 30, § 1.

SECT. 2. Every town that shall neglect, for six months, to
2 provide and maintain such pound, shall forfeit a sum not less
3 than fifty dollars; to be recovered by indictment before the dis-
4 trict court, and to be expended by an agent, to be appointed by
5 said court, for the use of said town, to build or maintain such
6 pound or pounds. R. S., c. 30, § 2.

SECT. 3. If any horse or horse kind, ass, mule, swine, goat,
2 sheep, or neat beast, shall, at any time, be found going at large
3 without a keeper, in the highways, roads, town ways or commons
4 of the town, the owner thereof shall forfeit seventy-five cents
5 for every horse, horse kind, ass or mule, swine or neat beast;
6 twenty-five cents for every goat; and ten cents for every sheep;
7 recoverable by action of debt, as hereinafter provided; or the
8 same beasts may be impounded, till the forfeiture aforesaid,
9 with the charges of impounding and keeping such beasts, and
10 all fees, shall be paid by the owner or claimant.

R. S., c. 30, § 3. 1853, c. 17, § 3.

SECT. 4. If such horse be an ungelded male, of one year old
2 or upwards, the owner thereof shall forfeit a further sum of four
3 dollars. If any ram or he goat shall be found going at large, in
4 any place out of the owner's inclosure between the tenth day of
5 August and the twentieth day of November, the owner thereof
6 shall forfeit a further sum of five dollars. R. S., c. 30, § 4.

SECT. 5. Any town, notwithstanding the provisions of the
2 third and fourth sections of this chapter, may, by vote thereof
3 at the annual meeting, permit cows, and any other particular
4 description of neat beasts, to go at large within such town, or
5 any specified part thereof, at any or all times, within one year
6 from the meeting. R. S., c. 30, § 5.

SECT. 6. When any person is injured in his land, by sheep, 2 swine, horses, asses, mules, goats or neat cattle, whether in a 3 common or general field, or in a close by itself, he may recover 4 his damages, in an action of trespass against the owner of the 5 beasts, or by distraining the beasts, or any of them, doing the 6 damage, and proceeding therewith, as hereinafter directed; 7 provided, that if the beasts shall have been lawfully on the 8 adjoining lands, and shall have escaped therefrom, in conse- 9 quence of the neglect of the person, who had suffered the 10 damage, to maintain his part of the partition fence, the owner 11 of the beasts shall not be liable for such damage.

R. S., c. 30, § 6.

SECT. 7. There shall be annually chosen, in every town, a 2 suitable person to keep each pound therein, and he shall be 3 sworn to a faithful discharge of his trust. R. S., c. 30, § 7.

SECT. 8. Each city or town, shall be responsible in damages 2 to the party injured, for all illegal doings or defaults of its 3 pound keeper, in any appropriate action to recover such 4 damages; and such pound keeper shall give a bond with sufficient 5 surety or sureties, to be approved by the aldermen or selectmen, 6 for the faithful performance of the duties of his office, before he 7 shall be entitled to act as such pound keeper.

1853, c. 17, § 4.

SECT. 9. Said pound keeper shall, in a book to be provided 2 at the expense of the town, make a record, at length, of all the 3 certificates he shall receive from persons committing beasts to 4 the pound, or finding stray beasts, and a single copy of all 5 advertisements, by him posted or published, and shall note 6 therein the time when a beast was impounded, and when, and 7 by whom, the same was taken away, and of all his proceedings 8 in the impounding and sale, specified in the seventeenth section 9 of this chapter, the price for which said beast is sold, the name 10 of the purchaser, and the disposal of the proceeds of such sale; 11 and a copy of said record, duly attested by such pound keeper, 12 or his successor in office, shall be evidence for the purchaser of 13 his title to said beast, and of the truth of all the facts thus 14 recorded; and for making such record, and for each copy 15 thereof, the pound keeper shall be entitled to receive twenty-five

16 cents; and said book shall be delivered by the pound keeper to
17 his successor in office, and shall be open to inspection of all
18 persons interested therein.

R. S., c. 30, § 8. 1853, c. 17, § 1.

SECT. 10. It shall be the duty of the pound keeper to restrain
2 the beasts impounded, in the town pound, or such other place,
3 after the first day, as shall be more for the comfort of the
4 beasts, or more convenient for their safety, and for giving them
5 food and drink; which shall be furnished by him, at the expense
6 of the impounder. Unless payment be made in advance, or
7 sufficient security for the same tendered, the pound keeper shall
8 not be obliged to receive such beasts into pound.

R. S., c. 30, § 9.

SECT. 11. Before the pound keeper shall be required to
2 receive any beast into pound, the impounder shall furnish the
3 said pound keeper with a certificate, under his hand, briefly
4 describing the beast, the cause of impounding, the amount of
5 damages or forfeiture claimed, and charges of impounding, then
6 accrued, of the following purport: "To the pound keeper
7 of — :"

"The undersigned A. B. of B. herewith commits to pound (a
9 horse or cow, as the case may be, with a short description of the
10 beast), taken up (in the highway or inclosure of said A. B. in B.
11 as the case may be), and the said A. B. demands — dollars
12 and — cents, for (damages or forfeiture, as the case may be),
13 and the unpaid charges for impounding the same.

"Witness my hand, A. B.

"B. (date) 18—."

R. S., c. 30, § 10.

SECT. 12. The pound keeper shall not be liable to any action
2 for receiving or detaining any beast, so committed, till the
3 several sums, claimed by such certificate, and all other due
4 expenses and costs and fees shall have been paid to him, except
5 under the provisions of the next section. R. S., c. 30, § 11.

SECT. 13. If the claimant of such beast object to the amount
2 stated as damages, or if no claimant appear, the pound keeper
3 shall, within ten days, and not afterwards, issue a warrant
4 under his hand, to two disinterested persons of said county, to
5 the following purport:

6 "P., ss: To E. F. and G. H., two disinterested persons of said
7 county: Greeting:

"You are hereby appointed to view and estimate, upon oath,
9 according to your best judgment, the damages done to A. B. by
10 the (horse, or oxen, as the case may be), owned or claimed by
11 (C. D. or by owner unknown), and make due return to me,
12 within twenty-four hours, with your doings therein; first giving
13 the said A. B. reasonable notice of the time when you will view
14 the place where the damages were done.

"Given under my hand this — day of —, 18—.

"O. P. Pound keeper."

RETURN OF THE APPRAISERS.

"Pursuant to this warrant, we the undersigned, being first
19 sworn to the faithful performance of the trust to which we have
20 been appointed, and having given said A. B. reasonable notice
21 as required, do hereby certify, that we have viewed and do
22 estimate the said damages at — dollars and — cents and
23 no more.

"E. F. { Appraisers.
"G. H. }

"B. (date) 18—."

And said persons, being first sworn, shall give reasonable
27 notice to the person impounding, and the owner of such beast,
28 if known and resident in the same town, of the time appointed
29 for the view, and proceed to estimate damages accordingly; and
30 make return to the pound keeper of their doings, in writing
31 under their hands. The oath may be administered, either by
32 said pound keeper, or a justice of the peace, and must be
33 certified on the same warrant. R. S., c. 30, § 12.

SECT. 14. Whoever shall take up in any public way or com-
2 mons, or within his inclosure or possessions, any such beast, as
3 before mentioned, as estrays, he shall within ten days, if no ow-
4 ner calls for the beast, commit the same to a pound keeper of
5 the same town, with a certificate, as described in the tenth sec-
6 tion of this chapter; which beast the pound keeper shall care-
7 fully keep till called for by the owner, and all due charges paid,
8 or until the beast shall be disposed of, as is hereinafter pre-
9 scribed. R. S., c. 30, § 13.

SECT. 15. If the possessor of such stray beast shall not deliver the same to a pound keeper, with a certificate as aforesaid, within said ten days, he shall for every week, after the ten days aforesaid, lose the expense of keeping, and forfeit one per cent. of the value of such stray beast, until he shall deliver the same to the pound keeper, with such certificate, or until such forfeiture shall amount to the value of the beast. R. S., c. 30, § 14.

SECT. 16. Whenever any pound keeper shall have received any beast, as aforesaid, he shall forthwith post, and keep posted, for three days, at his dwelling-house, and in two other public places in the same town, advertisements by him subscribed; stating the name of the impounder or finder, the time and cause of impounding, and a brief description of the beast; and notifying the owner to pay what is legally and justly demandable, and to take the beast away; and shall give the like public notice by the town crier, if such there be within the town. If the value of the beast exceed ten dollars, a copy of such advertisement shall be inserted in some newspaper, if any, printed in the county. R. S., c. 30, § 15.

SECT. 17. When any beast shall be impounded and proceedings had in the manner set forth in this chapter, if the forfeiture, damages and costs shall not be paid or the beast replevied within ten days after the notice provided in the sixteenth section shall have been given, the pound keeper shall without any other process sell the said beast at public auction, after having posted up in two public places in the town where said beast was impounded, at least forty-eight hours before the time of sale, notices of the time and place and cause of sale, in which he shall insert a brief description of the beast; and for posting such notices and making such sale, he shall be allowed the same fees that are allowed by law to sheriffs and constables for similar services.

1853, c. 17, § 1.

SECT. 18. And if the pound keeper shall be informed, or have reason to believe, that the beast impounded has strayed from a drove, or probably does not belong to an inhabitant of the town, he shall adjourn the sale thirty days, and shall publish notice of such adjournment in such papers as in his opinion may give information to the owner, and he shall be allowed a

7 reasonable sum, in addition to the fees aforesaid, for the
 8 publishing such notice; and the proceeds of such sale shall be
 9 disposed of in the manner provided in the twentieth section of
 10 this chapter. 1853, c. 17, § 1.

SECT. 19. In all cases where damages are claimed, the pound
 2 keeper shall, before making the sale provided in the two pre-
 3 ceding sections, institute and complete the proceedings specified
 4 in the thirteenth section, within the ten days after giving the
 5 notice provided in the sixteenth section. 1853, c. 17, § 2.

SECT. 20. The pound keeper shall retain the amount of his
 2 lawful charges and fees, and pay, to others interested, their
 3 lawful dues, respectively. The balance he shall, within thirty
 4 days, pay over to the treasurer of the same county; which
 5 balance the latter, or his successor, shall pay over at any time
 6 within six years, to such one, on his written request, as shall,
 7 satisfactorily to him, make out his right thereto, as having been
 8 the owner of the property before it was sold. In case of refusal,
 9 on the part of the treasurer, to pay over the same to any
 10 claimant, he may appeal to the county commissioners, whose
 11 decision thereon shall be final. If such balance remain in the
 12 treasury for six years, not claimed and paid over, as aforesaid,
 13 it shall become absolutely the property of the county.

R. S., c. 30, § 18.

SECT. 21. The owner of such beast may, at any stage of the
 2 proceedings, before a sale, as aforesaid, redeem the same on
 3 payment of all lawful claims and dues thereon, up to the time
 4 of his demand to redeem. R. S., c. 30, § 19.

SECT. 22. Whenever any person shall replevy the beasts,
 2 herein mentioned, he shall bring his action against the im-
 3 pounder, or finder, and not against the pound keeper, and the
 4 copy of the writ shall be served on the latter, as also on the
 5 defendant. The process, in other respects, shall be regulated
 6 by the provisions of chapter And if the
 7 plaintiff in replevin be absent, when the writ is sued out, it may
 8 be served, and his bondsmen, in the replevin bond, shall be held
 9 in the same manner as though he had himself signed and sealed
 10 it; and he may add his signature and seal before trial.

R. S., c. 30, § 20.

SECT. 23. If the property shall be replevied after the afore-
2 said notice of sale has been given, and before the sale be made,
3 the sale shall be postponed till the action of replevin be decided;
4 but no action of replevin shall be sustained, unless the writ be
5 served before the sale be made. R. S., c. 30, § 21.

SECT. 24. Whoever, in order to prevent the impounding of
2 any beast, lawfully in possession of any person, and taken for
3 the causes in this chapter mentioned, shall rescue the same, or,
4 directly or indirectly, shall occasion the escape thereof, shall
5 forfeit not less than five, nor more than twenty dollars; and he
6 shall be liable in an action on the case to pay to the party in-
7 jured the full damages with charges and costs, which he might
8 have received by impounding the beast. R. S., c. 30, § 22.

SECT. 25. If any person shall make any pound breach, or in
2 any other way, directly or indirectly, convey or deliver any
3 beast, impounded as aforesaid, from the pound or place where
4 said beast may be restrained, he shall forfeit and pay, to the use
5 of the town, a fine, not less than ten dollars, nor more than fifty
6 dollars, to be recovered by indictment. The person, so offending,
7 shall also be liable to pay the party injured, or impounding said
8 beast or beasts, double the damage or forfeiture, he may be
9 entitled to, by the impounding of such beast, to be recovered in
10 an action on the case. R. S., c. 30, § 23.

SECT. 26. When the rescue or pound breach, mentioned in
2 the preceding sections, is effected by an apprentice, legally
3 bound by deed, or a minor, the party injured, or impounder,
4 may prosecute for damages or forfeitures, either the master of
5 such apprentice, or the parent of said minor, under whose care
6 he may then be, or the apprentice or minor, at his election.

R. S., c. 30, § 24.

SECT. 27. The defendant in any action, brought for rescuing
2 beasts, distrained or impounded, shall not be allowed to allege,
3 or give in evidence, the insufficiency of the fences, or any other
4 fact or circumstance, to show that the distress or impounding
5 was illegal; but if there is any such ground of objection to the
6 proceeding, of which he is entitled to avail himself, he may
7 have the advantage thereof in an action of replevin.

R. S., c. 30, § 25.

SECT. 28. All forfeitures, mentioned in this chapter, where
 2 no other mode of recovery is prescribed, shall be by action of
 3 debt to the use of the prosecutor. All civil actions for forfeit-
 4 ures, mentioned in this chapter, without other express limitation,
 5 shall be barred, unless commenced within ninety days from the
 6 time the forfeitures accrued. R. S., c. 30, § 26.

SECT. 29. The fees, which the pound keeper shall receive,
 2 shall be twenty-five cents for impounding one or more beasts
 3 at one time; twelve cents and one half for recording each
 4 certificate, or advertisement; and the same for each advertise-
 5 ment posted or published, with four cents a mile for his
 6 necessary travel. R. S., c. 30, § 27.

SECT. 30. The party impounding such beast, or delivering
 2 the same to the pound keeper, shall have a reasonable sum for
 3 his trouble, to be determined by the pound keeper; but not
 4 exceeding one half of the respective forfeitures mentioned in the
 5 third section of this chapter, besides what forfeitures he may be
 6 entitled to under such section. R. S., c. 30, § 28.

SECT. 31. The price which the pound keeper shall be allowed
 2 for keeping and feeding the beasts committed to pound, or to his
 3 custody, for causes aforesaid, shall be prescribed by the selectmen
 4 of his town, and recorded on the town books by the town clerk,
 5 and be binding until altered by such selectmen, or their
 6 successors. R. S., c. 30, § 29.

Chapter 25.

PAUPERS—THEIR SETTLEMENT AND SUPPORT.

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55. Intemperate poor may be sent to the house of correction.
56. Expenses for support of pauper may be recovered of him.
57. At the death of a pauper the overseers may take possession of his effects.
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64. Appointment of visiting officers in maritime towns.
65. Penalty if masters of vessels attempt to evade the foregoing provisions.

SECT. 1. Legal settlements, in any town in this state, shall
 2 be hereafter gained, so as to subject and oblige such town to
 3 relieve and support the persons gaining the same, in case they
 4 become poor and stand in need of relief, by the ways and means
 5 following, viz:

First—A married woman shall always follow and have the
 7 settlement of her husband, if he have any within this state;
 8 otherwise, her own at the time of marriage, if she then had any,
 9 shall not be lost or suspended by the marriage; and in all suits
 10 between towns involving the settlement of a pauper, if the jury
 11 shall find that a marriage of such pauper has been effected by
 12 the agency or collusion of the officers of either town, with a view
 13 of changing the settlement of such pauper, the settlement of
 14 such pauper shall remain unchanged by such marriage.

Second—Legitimate children shall follow and have the settle-
 16 ment of their father, if he have any within the state, until they
 17 gain a settlement of their own; but if he have none, they shall
 18 in like manner follow and have the settlement of their mother,
 19 if she have any.

Third—Illegitimate children shall follow and have the settle-
 21 ment of their mother, at the time of their birth, if any she then
 22 have within the state; but neither legitimate nor illegitimate
 23 children shall gain a settlement by birth in the places where
 24 they may be born, if neither of their parents then have any
 25 settlement there.

Fourth—Upon the division of any town, every person having
27 a legal settlement therein, but being absent at the time of such
28 division, and not having gained a legal settlement elsewhere,
29 shall have his legal settlement in that town wherein his last
30 dwelling place shall happen to fall, upon such division; when
31 any new town shall be incorporated, composed of a part of one
32 or more old incorporated towns, every person legally settled in
33 any town of which such new town is wholly or partly so com-
34 posed, or who has begun to acquire a settlement therein, and
35 who shall actually dwell and have his home within the bounds
36 of such new town at the time of its incorporation, shall have the
37 same rights in such new town in relation to settlement, whether
38 incipient or absolute, as he would otherwise have had in the old
39 town where he dwelt.

Fifth—Any minor who shall serve an apprenticeship to any
41 lawful trade for the space of four years in any town, and actu-
42 ally set up the same therein within one year after the expiration
43 of said term, being then twenty-one years old, shall thereby
44 gain a settlement in such town.

Sixth—Any person of the age of twenty-one years, who shall
46 hereafter reside in any town within this state for the term of
47 five years together, and shall not during that term receive
48 directly nor indirectly any supplies or support as a pauper from
49 any town, shall thereby gain a settlement in such town.

Seventh—Any person, resident in any town on the twenty-
51 first day of March in the year eighteen hundred and twenty-one,
52 who had not within one year previous to that date received
53 support or supplies from some town as a pauper, shall be deemed
54 to have a settlement in the town where he dwelt and had his
55 home, unless he may have subsequently acquired some other
56 settlement under laws existing for the time being.

Eighth—All persons dwelling and having their homes in any
58 unincorporated place at the time when the same shall be incor-
59 porated into a town, having resided within the limits thereof
60 for five years previous to such incorporation, and not having
61 received supplies as a pauper, shall thereby gain a legal settle-
62 ment therein; and any such person who had so resided there for
63 a less term than five years previous to such incorporation, shall

64 gain a settlement therein at the end of five years continued
65 residence. R. S., c. 32, § 1. 1846, c. 226.

SECT. 2. All settlements acquired under laws heretofore in
2 force in this state, and not already lost, and all settlements
3 acquired under this chapter shall remain, until lost by gaining
4 others in some of the modes herein before specified; and upon
5 such new settlement being gained, all former ones shall be
6 defeated and lost. R. S., c. 32, § 2.

SECT. 3. No person who has begun to acquire a settlement,
2 by the laws in force, at and before the time, when the provisions
3 in this chapter shall take effect, under its regulations, shall be
4 prevented or delayed thereby; but he shall acquire a settlement
5 in the same time and manner, as if the former laws were
6 continued in force. R. S., c. 32, § 3.

SECT. 4. Every town within this state shall be holden to
2 relieve and support all poor and indigent persons, lawfully
3 settled therein, whenever they shall stand in need of such
4 assistance; and may raise moneys therefor, and for their
5 employment, in the same way, that moneys for other town
6 charges are raised. Towns may also, at their annual meetings,
7 choose any number, not exceeding twelve suitable persons,
8 dwelling therein, to be overseers of their poor; and where such
9 are not specially chosen, the selectmen shall be overseers of the
10 poor. R. S., c. 32, § 4.

SECT. 5. Any two or more towns may unite in the purchase
2 of a farm and buildings, or in erecting buildings, to be used for
3 the support and maintenance of their poor, and in furnishing
4 such farms and buildings with all the necessary furniture and
5 apparatus for properly conducting the same; and for that purpose
6 each of such towns shall appoint such number of commissioners
7 as shall be agreed upon, which shall constitute a joint commission
8 to cause the agreement and direction of such towns for that
9 purpose to be carried into effect, and may raise money for the
10 purposes named in this and the following section.

1853, c. 25, § 1. 1853, c. 25, § 3.

SECT. 6. The overseers of the poor of such towns shall
2 constitute a joint board of overseers of such farm and buildings,
3 and they shall be governed in the administration thereof by

4 such reasonable and legal by-laws as they at any full meeting
 5 of such board shall establish, and may appoint a superintendent
 6 to manage the same, with such powers and authority as they
 7 may lawfully confer upon him, and they may cause all the
 8 paupers of their said towns to be supported at such place so
 9 provided, and they shall have authority to receive and support
 10 at the same, paupers of other towns on such terms as to them
 11 seem just and reasonable. 1853, c. 25, § 2.

SECT. 7. The overseers of the poor shall have the care and
 2 oversight of all such poor and indigent persons, as are charge-
 3 able to their respective towns; and shall see, that they are
 4 suitably relieved, supported and employed, either in the work
 5 house or other tenements belonging to such towns, or in such
 6 other way, as such towns, at a legal meeting, may direct, or
 7 otherwise at the discretion of their overseers, and at the cost of
 8 such towns. R. S., c. 32, § 5.

SECT. 8. No town, by its overseers or otherwise, shall permit
 2 any poor and indigent persons, chargeable to such town, to be
 3 set up and bid off at auction, either for support or service; but
 4 any town, at the annual meeting in March, by due notice
 5 inserted in the warrant, may contract for the keeping the poor
 6 of the town for any term not exceeding five years.

1847, c. 12. 1845, c. 147.

SECT. 9. If any such poor and indigent person be insane,
 2 the said overseers shall, either wholly, or in part, with the
 3 assistance of the friends of such person, cause him to be removed
 4 to, and provide for his support in, the insane hospital of this
 5 state: provided, that he can, under the regulations of the
 6 hospital for the time being, be admitted therein, and that, in
 7 the opinion of the superintendent of the hospital, or of such
 8 physician as he shall depute to make an examination into the
 9 case, the insanity of such person be such, that he will derive
 10 benefit from a residence therein. And the said superintendent
 11 shall appoint a suitable physician, as near as may be to the
 12 place of residence of such insane person, to make such
 13 examination, the expense whereof shall be paid by the town to
 14 which such person is chargeable for support.

Amendment, 1841, § 6.

SECT. 10. The kindred of any such poor person, if any he
2 have, in the line or degree of father or grandfather, mother or
3 grandmother, children or grand children, by consanguinity,
4 living within this state, of sufficient ability, shall be holden to
5 support such pauper, in proportion to such ability, respectively.

R. S., c. 32, § 6.

SECT. 11. The supreme judicial court in the county where
2 any one of such kindred to be charged shall reside, upon
3 complaint made by any town, or by any kindred, who shall have
4 been at any expense for the relief and support of any such
5 pauper, may, on due hearing, either upon the appearance or
6 default of the kindred so summoned, assess and apportion such
7 sum as they shall judge reasonable therefor, upon such of said
8 kindred as they shall judge to be of sufficient ability, and in
9 proportion thereto, to the time of such assessment, with costs,
10 to be apportioned amongst the respondents at their discretion;
11 and may enforce payment thereof by warrant of distress; pro-
12 vided, that such assessment shall not extend to any expense for
13 any relief afforded more than six months previous to the filing
14 of such complaint.

R. S., c. 32, § 7.

SECT. 12. The said court may further assess and apportion
2 upon the said kindred, such weekly sum for the future as they
3 shall judge sufficient for the support of such pauper, to be paid
4 every three months till the further order of court. Upon appli-
5 cation from time to time of the town or kindred to whom the
6 same shall have been ordered to be paid, the clerk of said court
7 shall issue and may renew a warrant of distress for the arrears
8 of any preceding quarter, returnable to the next following term
9 of said court.

R. S., c. 32, § 8.

SECT. 13. The said court may further order with whom of
2 such kindred that may desire it, such pauper may live and be
3 relieved, and for such time, with any or either, as they shall
4 judge proper; having regard to the comfort of the pauper as well
5 as the convenience of the kindred.

R. S., c. 32, § 9.

SECT. 14. The complaint provided in the eleventh section of
2 this chapter shall be filed in the office of the clerk of the supreme
3 judicial court; who shall issue a summons thereon, requiring
4 the kindred therein named to appear and answer thereto. The

5 summons may be directed to any officer qualified to serve other
6 civil process between the same parties, and served as an original
7 summons fourteen days at least before the sitting of the court
8 to which it is returnable. R. S., c. 32, § 10.

SECT. 15. On the suggestion of either party that there are
2 other kindred of ability not summoned in the original process,
3 the complaint may be amended by inserting their names, and
4 such other kindred may be summoned in like manner; and upon
5 due notice, whether they appear or are defaulted, the court may
6 proceed against them in the same manner as if they had been
7 originally named in the complaint. R. S., c. 32, § 11.

SECT. 16. If such complaint be not entered, or be discontinued
2 or withdrawn, or be adjudged groundless, the respondents shall
3 recover costs. The said court may take further order from time
4 to time, in the premises, upon application of any party inter-
5 ested; and may alter such assessment and apportionment on due
6 notice, as circumstances may require. R. S., c. 32, § 12.

SECT. 17. The overseers of the poor may bind by indentures,
2 as apprentices or as servants, in any lawful employment, any
3 minor children whose parents become actually chargeable to
4 their town; or any whose parents, in the opinion of said over-
5 seers, are unable to maintain them, whether they receive alms
6 or are chargeable or not; or any who are themselves chargeable,
7 as having a settlement in said town, to any citizen of this state;
8 that is to say, male children till they come to the age of twenty-
9 one years, and females till they come to the age of eighteen
10 years, or are married within that time; and the consent of said
11 minors, though more than fourteen years of age, or of their
12 parents, shall not be material to the validity of such binding.

R. S., c. 32, § 13.

SECT. 18. Provision shall be made in such deed or indent-
2 ures, for the instructing of male children so bound out, to read,
3 write and cypher, and of females to read and write; and for such
4 other instruction, benefit and allowance, either within or at the
5 end of the term, as the overseers may think reasonable.

R. S., c. 32, § 14.

SECT. 19. It shall be the duty of said overseers to inquire
2 into the treatment of such minor children, who now are, or may

3 be bound out, by force of this chapter; and to protect and de-
4 fend them in the enjoyment of their rights, as well in reference
5 to their masters as others. R. S., c. 32, § 15.

SECT. 20. Upon the complaint by said overseers, made to the
2 supreme judicial court, in the county where their town is, or
3 where the master of the child bound out as aforesaid may reside,
4 against the master of any such child, for abuse, ill treatment or
5 neglect, said court having duly notified the party complained of,
6 may proceed to hear the complaint; and if the same be sup-
7 ported, and the cause shall be judged sufficient, may discharge
8 such child from his or her master, with costs, for which execu-
9 tion may be awarded: otherwise the complaint shall be dis-
10 missed; but with or without costs for the respondents, at the
11 discretion of the court, as the complainants may appear to be
12 justified by probable cause or not. R. S., c. 32, § 16.

SECT. 21. Any such apprentice or servant, so discharged, or
2 whose master may decease, may be bound out anew, as afore-
3 said, for the residue of the term. R. S., c. 32, § 17.

SECT. 22. Said overseers may also have remedy, by action on
2 such indentures, against any person liable thereby, for recovery
3 of damages for breaches of any of the covenants therein con-
4 tained; and the amount recovered shall be placed in the town
5 treasury, deducting reasonable charges, and disposed of by the
6 overseers for the time being, at their discretion, within the term,
7 for the benefit and relief of such apprentice or servant. The
8 remainder, if any, shall be paid over to him, at the expiration
9 of the term. The court, before which such cause shall be tried,
10 may also, upon the plaintiff's request, if they see cause, liberate
11 and discharge such apprentice or servant from his master, if not
12 already done by the process herein before provided.

R. S., c. 32, § 18.

SECT. 23. No action, brought by overseers as aforesaid, shall
2 abate by the death of some of them, or by their being succeeded
3 in office, pending the action, but it shall proceed in the name of
4 the original plaintiffs, or the survivors of them.

R. S., c. 32, § 19.

SECT. 24. Such apprentice or servant shall have remedy, at
2 the expiration of his term, for damages for the aforesaid causes,

3 other than for such causes as may have been tried in a suit or
4 suits, commenced as aforesaid by the overseers, either in a spe-
5 cial action on the case, or trespass, or on the deed or indentures
6 aforesaid; *provided*, the suit shall be commenced within two
7 years after the expiration of his term. For this purpose he
8 shall be entitled to the custody and use of the said deed or inden-
9 tures, or a copy, as the circumstances of the case may require,
10 and to bring the action, in his own name, as assignee of the
11 instrument; and no endorsement shall be necessary by the
12 overseers. R. S., c. 32, § 20.

SECT. 25. If any apprentice or servant, bound as aforesaid,
2 shall unlawfully depart from the service of his master, any
3 justice of the peace, of the county where the master dwells, or
4 where the apprentice or servant may be found, upon complaint
5 on oath, made to him by the master, or by any one in his
6 behalf, may issue his warrant to apprehend the apprentice or
7 servant, and bring him before the said justice; and if the
8 complaint shall be supported, the justice may order the offender
9 to be returned to his master, though he may reside in another
10 county, or may commit him to the common jail or house of
11 correction, there to remain for a term not exceeding twenty
12 days, unless sooner discharged by his master.

R. S., c. 32, § 21.

SECT. 26. Every person, enticing such apprentice or servant
2 away from his master, or harboring him, knowing him to have
3 eloped, shall be liable to the master's action for all damages
4 sustained thereby. R. S., c. 32, § 22.

SECT. 27. The supreme judicial court, either in the county,
2 where the overseers binding, or their successors, or the master
3 of any apprentice or servant bound, live, may, upon complaint
4 of such master, for gross misbehavior, discharge such apprentice
5 or servant, from his apprenticeship or service, after due notice
6 to such apprentice or servant, and to the overseers of the poor of
7 the town, where he is settled. R. S., c. 32, § 23.

SECT. 28. Said overseers shall have the power to set to work,
2 or bind out to service, by deed, for a term not exceeding one
3 year at a time, all such persons residing, and lawfully settled
4 in their respective towns, or who have no such settlement in

5 this state, married or unmarried, upwards of twenty-one years
6 of age, as are able of body, but have no apparent means of
7 support, and who live idly, and all persons, who are liable by
8 any law to be sent to the house of correction, upon any reason-
9 able terms and conditions. R. S., c. 32, § 24.

SECT. 29. Any person, thinking himself aggrieved by the
2 doings of said overseers in the premises, may apply, by com-
3 plaint, to the supreme judicial court in the county where they
4 are bound, or where said overseers reside, for relief, which court,
5 after due notice to the master of such person, and the overseers
6 of such person's town, shall have power, if they see cause, to
7 release the complainant from his master, or the care of the
8 overseers; otherwise to dismiss the complaint; and to give costs
9 against either party, or against the said town, at their
10 discretion. R. S., c. 32, § 25.

SECT. 30. All persons standing in need of relief, living
2 without the bounds of any incorporated town, shall be under the
3 care of the overseers of the poor in the adjoining town wherein
4 the legal voters of such unincorporated place usually vote; and
5 the said overseers may bind out the children of such poor
6 persons, as if they were inhabitants of the town in which they
7 obtain relief; and may set to work and bind out, in the manner
8 described in the twenty-eighth section of this chapter, persons
9 of like description dwelling in such unincorporated place, as if
10 in their own towns; such persons to be entitled also to similar
11 remedy and relief, if aggrieved thereby. R. S., c. 32, § 26.

SECT. 31. Whenever the overseers of the poor of any town
2 shall furnish relief and support to any poor persons residing
3 within any unincorporated place, as provided in the section
4 preceding, the town furnishing the same shall be remunerated
5 by the town where such poor persons may have their settlement,
6 in the same manner as if such persons had been residents of
7 their town. R. S., c. 32, § 27.

SECT. 32. Any person without the limits of an incorporated
2 town, may extend or procure all necessary relief and medical
3 aid to any one falling sick, or being wounded or dangerously
4 injured, beyond the limits of any town, and such person
5 extending relief or procuring aid as aforesaid, or burying such

6 person in case of death, may recover the amount by him
7 expended against the town where such sick or wounded person
8 had his legal settlement. Provided, the person extending such
9 relief shall within sixty days from the day such relief was
10 extended or medical aid procured, deliver into a post office a
11 notice in writing, by him signed, directed to the overseers of
12 the poor of such town, notifying them of the name of the person
13 relieved, and the nature of the sickness or injury, if known, and
14 the amount then expended for such relief. 1850, c. 191, § 1.

SECT. 33. Towns paying expenses or costs under the pro-
2 visions of the preceding section, may recover the amount paid
3 and interest thereon, of the person relieved as aforesaid, or his
4 kindred, or other persons liable by law for his support.

1850, c. 191, § 2.

SECT. 34. Any person duly convicted of keeping a house of
2 ill fame before any justice of the peace or supreme judicial
3 court, may be ordered to the house of correction, either of their
4 own town or county, or to the county jail, for a term not ex-
5 ceeding one month; and it shall be the duty of the overseers of
6 the poor, in their respective towns, to prosecute all those whom
7 they may have good cause to suspect of being thus guilty. Any
8 person thus convicted shall not be allowed to keep lodgers or
9 boarders in any town without license of the overseers thereof.

R. S., c. 32, § 28.

SECT. 35. The said overseers, in their respective towns, shall
2 also provide for the immediate comfort and relief of all persons
3 residing or found therein, not belonging thereto, but having
4 lawful settlements in other towns, when they shall fall into
5 distress and stand in need of immediate relief, and until they
6 shall be removed to the places of their lawful settlements; the
7 expenses whereof, incurred within three months, next before
8 written notice given to the town to be charged, as also of their
9 removal, or of their burial, in case of their decease, may be sued
10 for and recovered by the town, incurring the same, against the
11 town, which is liable therefor, in an action at law; provided,
12 that such action for damages be instituted within two years
13 after the cause of action shall have arisen; but not otherwise.

R. S., c. 32, § 29.

SECT. 36. A recovery in such action shall bar the town, 2 against which it shall be had, from disputing the settlement of 3 such pauper, with the town so recovering, in any future action 4 brought for the support of such pauper. R. S., c. 32, § 30.

SECT. 37. The overseers of the poor in any town, in which 2 there is a county jail, are hereby authorized and directed, at 3 their discretion, by their order in writing, to set to work under 4 themselves or others, any debtor, committed to prison upon 5 mesne process or execution, and actually chargeable to any 6 town in this state for his support, so far as may be necessary for 7 his support, and no further. The town, chargeable for the 8 maintenance of such debtor, shall be liable only for the deficiency 9 of his earnings to pay the expenses of his support, whilst such 10 order remains in force. R. S., c. 32, § 31.

SECT. 38. Every town, which shall incur and pay the charges 2 of maintaining in prison any person as a pauper, committed on 3 mesne process or execution, in any civil action, may recover the 4 some in an action at law against the creditor, at whose suit such 5 debtor shall have been committed; not to exceed the rate of one 6 dollar and twenty-five cents a week during such imprisonment. R. S., c. 32, § 32.

SECT. 39. Any such creditor may, at any time, discharge his 2 debtor, committed as aforesaid, from prison, and such discharge 3 shall not operate to release the debtor from the debt and costs 4 on which he was committed; but such debt and costs, together 5 with all sums which the creditor may have paid for the sup- 6 port of the debtor under imprisonment, shall be and remain a 7 legal claim against the goods and estate of the debtor; his body 8 being, forever thereafter, exempted from arrest therefor.

R. S., c. 32, § 33.

SECT. 40. The keeper of any prison shall be entitled to 2 receive after the rate of one dollar and twenty-five cents per 3 week, and no more, for the entire support of each debtor, being 4 a pauper, in close confinement under his care.

R. S., c. 32, § 34.

SECT. 41. All persons who have actually received relief in 2 the places wherein they are found, but in which they have no 3 lawful settlement, may be removed to the places of their lawful

4 settlements, if they have any within the state. In order to
 5 effect such removal, and also to recover the expenses incurred
 6 for the relief of such persons, if the overseers of the town where
 7 such persons are found, choose that mode in preference to a civil
 8 action, said overseers may apply by complaint to any justice of
 9 the peace in their county, not an inhabitant of their town; and
 10 the said justice is authorized to issue his summons, to be served
 11 as other civil processes may be, upon the inhabitants of the
 12 town where said person's settlement is alleged to be, and also
 13 upon the party whose removal is contemplated, and upon such
 14 witnesses as he may see fit. The said justice may examine the
 15 said party, to be removed under oath, and may compel his at-
 16 tendance for that purpose, by warrant, if he see cause. He
 17 shall hear his objections to such removal, and for good cause,
 18 may continue the process once, or more times, not exceeding
 19 three months in all; and after due examination and hearing,
 20 whether the town summoned appears or not, shall proceed to
 21 give judgment for, or against the complainants, and make a
 22 record thereof. 1846, c. 11. R. S., c. 32, § 35.

SECT. 42. In such cases costs shall be awarded in favor of
 2 the prevailing party, except that in case of default, the town
 3 summoned shall not be entitled to costs; and the record shall
 4 state the decision of the justice, as to the town where the party
 5 intended to be removed has his legal settlement; and on the
 6 question of his removal, and the damages for expenses incurred
 7 by said town making complaint; and the estimated expenses of
 8 removal, if such removal shall be ordered, in addition to the
 9 costs above named. R. S., c. 32, § 36. 1846, c. 11.

SECT. 43. Upon judgment of removal, said justice, within
 2 three months, and not afterward, may issue his warrant of re-
 3 moval, directed to the sheriff of the county or his deputy, the
 4 constable of the town where such person is to be removed, or to
 5 any individual by name, or all or any of them, to be served;
 6 also requiring the overseers of the poor of the town to which
 7 such person is to be sent, to receive and provide for him, as an
 8 inhabitant of that town; a copy of which warrant shall be served
 9 on some one or more of said overseers. Such person may be
 10 transported either by land or water. R. S., c. 32, § 37.

SECT. 44. Such overseers shall be obliged to receive and provide for such person accordingly. Said justice may also award execution, as in other cases, for the aforesaid damages, costs and estimated expenses of removal; and the execution may be directed to, and served by any officer in the county where the town is, against which it issues, qualified to serve executions in civil actions. R. S., c. 32, § 38.

SECT. 45. Either party, including the person ordered to be removed, aggrieved by the judgment aforesaid, may appeal to the next supreme judicial court, for the same county, which court shall have appellate jurisdiction of the case, and hear and decide the same without a jury, unless either party require one; provided, that the person to be removed may be required to enter into recognizance to prosecute his appeal with effect, and other purposes, as is provided in civil actions. If the appeal be not entered, said court may, on complaint of the party prevailing before the said justice of the peace, affirm the said judgment with additional damages, if any have intervened, and costs.

R. S., c. 32, § 39.

SECT. 46. Said overseers may at their election, file their complaint, originally, in the supreme judicial court, held in the county where they reside, setting forth the facts of the case, and cause the adverse party to be summoned, in time and manner as aforesaid, and also the person to be removed: and such court shall hear and decide the cause, without a jury, unless either party require one, and grant a warrant and execution in the same manner, as in cases coming before them by appeal; and, in all their adjudications in the premises, they shall state the facts, on which their judgment is founded, and if any error in law exists, either party may cause the same to be corrected, on error, in the supreme judicial court, if the writ of error be sued out in one year after such judgment was rendered. If such should be affirmed, the defendant in error shall recover his costs; if reversed, the plaintiffs shall be restored to all they have lost, with costs. R. S., c. 32, § 40.

SECT. 47. In all cases of complaint, as provided for in the forty-first and forty-sixth sections of this chapter, depositions may be used for any cause, authorized in other civil actions,

4 and the process shall not abate, so far as respects the damages
5 and costs, by the decease of the person, whose removal was
6 applied for, pending the suit. A final decision on the question
7 of settlement on any such complaint, shall estop the party
8 against whom the decision is made, to contest the settlement of
9 such person in any future suit, of whatever nature, between the
10 same towns. R. S., c. 32, § 41.

SECT. 48. The said overseers may, in all cases, if they judge
2 it expedient, previous to any such application to a justice of the
3 peace, or the supreme judicial court, send a written notification,
4 stating the facts relating to any person actually become charge-
5 able to their town, to one or more overseers of the place where
6 his settlement is supposed to be, and requesting them to remove
7 him; which they may do, by a written order directed to any
8 person therein designated, who is hereby authorized to execute
9 the same. R. S., c. 32, § 42.

SECT. 49. If such removal is not effected by the last men-
2 tioned overseers, within two months after receiving such notice,
3 they shall, within two months, send a written answer, stating
4 therein their objections to the removal of the pauper, signed by
5 one or more of them, to one or more of the overseers, requesting
6 such removal; and if they shall fail so to do, the overseers, who
7 requested the removal of the pauper, may cause him to be
8 removed to the place of his supposed settlement, by a written
9 order, directed to any person they may designate, who is
10 hereby authorized to execute the same; and the overseers of the
11 town to which the pauper is so sent, shall be obliged to receive
12 and provide for him; and their town shall be liable for the
13 expenses of his support and removal, to be recovered by an action
14 by the town incurring the same, and shall be barred from
15 contesting the question of settlement with the plaintiffs in such
16 action. R. S., c. 32, § 43.

SECT. 50. If the written notice or answer thereto provided
2 for in the thirty-fifth, forty-eighth and forty-ninth sections of
3 this chapter, shall be sent by mail, and shall arrive at the post
4 office in the town where the overseers of the poor of the town
5 to whom such notice or answer may be directed, shall reside, it

6 shall be deemed equivalent to an actual delivery of such notice
7 or answer to such overseers. R. S., c. 32, § 44.

SECT. 51. Any person, lawfully removed, agreeably to this
2 chapter, to the place of his lawful settlement within this state,
3 who shall voluntarily return to the town from which he was
4 removed, without the consent of the overseers thereof, shall be
5 deemed a vagabond, and upon conviction thereof, before any
6 justice of the peace in the same county, may be sent to the
7 house of correction. R. S., c. 32, § 45.

SECT. 52. The overseers of the poor, of each town, shall also
2 relieve and support, and, in case of their decease, decently bury
3 all poor persons residing or found in their towns, having no
4 lawful settlement within this state, when they stand in need;
5 and may employ them as they may other paupers: the expense
6 whereof may be recovered of their relations, if they have any,
7 chargeable by law for their support, in manner herein before
8 provided; otherwise it shall be paid out of their respective town
9 treasuries. R. S., c. 32, § 46.

SECT. 53. Upon the complaint of the said overseers of any
2 town, any justice of the peace may, by warrant directed to, and
3 to be executed by any constable, or any other person therein
4 designated, cause any such pauper to be sent and conveyed at
5 the expense of the town, by land or water, to any other state, or
6 to any place beyond sea, where he belongs, if the justice thinks
7 proper, and if he may be conveniently removed; but if he cannot
8 be so removed, he may be sent to, and relieved and employed
9 in, the house of correction or work house, at the expense of the
10 town. R. S., c. 32, § 47.

SECT. 54. Every town shall be held to pay any expense
2 which may be necessarily incurred for the relief of a pauper,
3 by any inhabitant, who is not liable by law for his support,
4 after notice and request made to the overseers of the said town,
5 and until provision shall be made by them.

R. S., c. 32, § 48.

SECT. 55. When any poor person, being in any town in this
2 state, and standing in need of support, is notoriously subject to
3 habits of intemperance, it shall be the duty of the overseers of

4 the poor in such town to apply, by complaint, to any justice of
5 the peace in their county, who shall issue a warrant thereon
6 against any such person; and after a hearing before such justice,
7 if he shall adjudge that such person is thus subject to habits of
8 intemperance, he shall order him to be committed to the house
9 of correction, there to be supported at the expense of the town
10 in which he has a settlement; and when not having any such
11 settlement in this state, at the expense of the county; till
12 discharged by the overseers of the town, in which such house of
13 correction is situated, or by two justices of the peace and
14 quorum.

R. S., c. 32, § 49.

SECT. 56. Any town, which has incurred expense for the
2 support of any pauper, whether legally settled in such town or
3 not, may recover the amount of the same against such person,
4 his executors or administrators, in an action of assumpsit.

R. S., c. 32, § 50.

SECT. 57. Upon the death of any pauper, who, at the time of
2 his decease, shall be actually chargeable to any town, the
3 overseers of the poor of such town may take into their possession
4 all the personal property of such pauper. If no administration
5 shall be taken upon the estate of such pauper, within thirty
6 days after his decease, said overseers may sell so much of such
7 property, as may be necessary, to repay the expenses incurred
8 for such pauper. If any part of such property shall be withheld
9 from said overseers, they shall have the same remedy for the
10 recovery of such property, or the value thereof, as an adminis-
11 trator of said pauper might have in like case.

R. S., c. 32, § 51.

SECT. 58. In all actions and prosecutions by complaint under
2 the provisions of this chapter, for or against any town, or
3 against any individual, the overseers of the poor of any town
4 becoming a party, or any person in writing under their hands
5 appointed, may appear and prosecute or defend the same to final
6 judgment and execution, in behalf of such town.

R. S., c. 32, § 52.

SECT. 59. Any plantation, at a legal meeting for the purpose,
2 is empowered to raise money for the relief of the poor therein,
3 to be applied by the assessors thereof.

R. S., c. 32, § 53.

SECT. 60. If any person shall bring into, and leave any poor and indigent person in any town in this state, wherein such pauper is not legally settled, knowing him to be poor and indigent, and with intent to charge such town with his support, he shall forfeit a sum, not exceeding one hundred dollars, for every such pauper; to be sued for and recovered by and to the use of such town, by action of debt, in any court proper to try the same. R. S., c. 32, § 54.

SECT. 61. No indenture of apprenticeship or service, made in pursuance of this chapter, shall bind the minor after the death of his master or mistress; but the apprenticeship or service shall from thenceforth be discharged, and the minor may be bound out anew. R. S., c. 32, § 55.

SECT. 62. When any ship or vessel, having any passengers on board, who have no settlement within this state, shall arrive at any port or harbor within the state, the master of such ship or vessel, before such passengers come on shore, shall leave a list of their names, and the places where said passengers first embarked on board such ship or vessel, with the overseers of the poor, where such passengers shall arrive. The master of such ship or vessel shall not land any such persons without the permission of the selectmen, unless he shall have entered into bond to such town, with sufficient sureties to the satisfaction of said selectmen, in a sum not exceeding five hundred dollars for each passenger, to save harmless such town, and all other towns within the state, from all manner of charge and expense, which may arise from such passengers, as paupers, for and during the term of three years; or the selectmen may, instead of such bond, require the payment of a sum of money, not exceeding two dollars for every such passenger; the same to be appropriated as such town may direct for the support of paupers.

R. S., c. 32, § 56. 1848, c. 40.

SECT. 63. For any neglect of the preceding section, said master shall forfeit and pay two hundred dollars for each passenger so coming on shore, or landed; to be recovered by action of debt, by any person, who shall sue for the same, one moiety thereof to the use of the state, and the other moiety to the prosecutor. And any justice of the peace in the county where such

7 ship or vessel shall arrive as aforesaid, on complaint in writing,
8 made to him by a majority of the overseers of the poor of the
9 city or town where the vessel arrived, that the master thereof
10 has not complied with the foregoing provisions of this section,
11 shall issue his warrant to the sheriff of said county, or any of
12 his deputies, or constable of said town, requiring them to attach
13 and detain such ship or vessel, until said penalty and the costs
14 shall be paid by said master; but if not paid within twenty days,
15 then the officer having the warrant, shall sell said vessel at auc-
16 tion, after posting public notice of the sale in said town, four
17 days beforehand; and after deducting from the amount all the
18 said penalty and costs, shall pay over the balance to the owner
19 on demand. R. S., c. 32, § 56.

SECT. 64. Any town, accessible by ships or vessels, shall
2 have power to appoint one or more visiting officers, whose duty
3 it shall be, on the arrival of any ship or vessel having on board
4 one or more such passengers, to go on board such ship or vessel,
5 and there remain until the provisions of the sixty-second section
6 of this chapter shall be complied with. It shall be the duty of
7 such visiting officers, or either of them, to prevent the landing
8 of any such passenger, against the provisions of said section.
9 In case of the violation of said provisions, or an intention to vio-
10 late, suspected by them, it shall be the duty of such officers to
11 give information to the selectmen of their town. A reasonable
12 compensation shall be paid to any such officer, by the master or
13 owner of such ship or vessel, to be fixed by the selectmen.

R. S., c. 32, § 58.

SECT. 65. If any master or commanding officer of any such
2 ship or vessel shall land any such passenger at any place within
3 this state, other than that to which such ship or vessel shall be
4 destined, with the intent to avoid the requirements of this chap-
5 ter, such master or commanding officer shall forfeit one hundred
6 dollars, for every such foreign passenger thus landed; to be sued
7 for and recovered in the same manner and to the same uses, as
8 the penalty provided in the sixty-second section of this chapter.

R. S., c. 32, § 59.

Chapter 26.**KEEPING WATCH AND WARD IN TOWNS, AND OF DISORDERS IN STREETS AND PUBLIC PLACES.**

- Sect.* 1. Who are liable to keep watch and ward.
2. Power of selectmen and justices to order watch and ward to be kept, and proceedings.
3. Charge of constable, and powers of watch.
4. Duties of watch.
5. Badges of constable and watch.
6. Expense of watch otherwise kept, how defrayed.
7. Proceedings in such case.
8. Penalty for neglect of duty by a watch.
9. Penalty for neglect of constable or officer.
10. Constable and watchmen to attend justices when walking the rounds.
11. Penalty for riding with a naked scythe.
12. Certain pageantry prohibited in streets in the night.
13. Bonfires in streets and towns prohibited.
14. Fines, how recovered and appropriated.
15. Masters and parents liable for minors.

SECT. 1. Every male person, of the age of twenty-one years 2 or upwards, being able of body, or having estate sufficient to 3 hire a substitute, and not being a minister of the gospel, shall, 4 when duly warned, be liable to watch and ward in his town, 5 either in person or by a sufficient substitute; unless such per- 6 son reside more than two miles from the place where the watch 7 or ward is kept. R. S., c. 31, § 1.

SECT. 2. The justices of the peace resident in any town, 2 together with the selectmen of such town, shall have power, from 3 time to time, to direct and order suitable watches to be kept, 4 nightly, in such town, from such hour in the evening as they 5 shall appoint, until sun rising in the morning: also wards to be 6 kept in the day time and evening, whenever they shall think 7 such watches and wards necessary; such justices and selectmen 8 may designate the time, place and number of persons to be em- 9 ployed in any such watch or ward; and they may give orders in 10 writing accordingly, signed by a major part of such justices and 11 selectmen, directed to any constable of the town, requiring him, 12 from time to time, to warn such watch or ward, and to see that 13 all persons, so warned, do attend and perform their duty in the 14 manner required; and, in the warning thereof, to take care that

15 some able householders, or other sufficient persons, be joined in
16 each watch or ward. R. S., c. 31, § 2.

SECT. 3. Such constable shall charge the watch to see that
2 all disturbances and disorders in the night be prevented and
3 suppressed; and, for that purpose, the watch shall have author-
4 ity to examine all persons whom they shall see walking abroad
5 in the night after ten o'clock, and whom they shall have reason
6 to suspect of any unlawful intention, as to their business abroad
7 at such time, and whither they are going; to enter any houses
8 of ill fame, for the purpose of suppressing any disturbance or
9 riot therein; and to arrest any person there found, making, or
10 abetting others in such riot or disturbance: and all suspicious
11 persons thus abroad, who shall not give a satisfactory account of
12 themselves, and all persons so arrested, in such houses of ill
13 fame, shall be secured by imprisonment, or otherwise, to be
14 safely kept until morning; and shall then be carried before one
15 of the nearest justices of the peace, to be examined and pro-
16 ceeded against according to the nature of their offenses.

R. S., c. 31, § 3.

SECT. 4. The watchmen shall walk the rounds, in and about
2 the streets, wharves, lanes, and principal inhabited parts within
3 each town, to prevent any danger by fire, and to see that good
4 order is kept; and shall suitably observe the charge given them,
5 as aforesaid. R. S., c. 31, § 4.

SECT. 5. Each constable, when attending watch or ward, shall
2 carry with him the usual badge of his office; and the watchmen
3 shall carry such suitable badge, as the selectmen of their town
4 shall provide. R. S., c. 31, § 5.

SECT. 6. When the inhabitants of any town shall determine
2 that a watch shall be kept, in any other manner than is provided
3 in this chapter, the expense thereof shall be defrayed in like
4 manner as other town charges. R. S., c. 31, § 6.

SECT. 7. Whenever any watch shall be established, according
2 to the provisions of the preceding section, the town shall determine
3 the number and qualifications of the persons to be employed for
4 that purpose, and the selectmen shall appoint a suitable person
5 to be captain or officer of the watch: and every watchman shall
6 be equipped in such manner as the selectmen of the several

7 towns shall determine; and the powers and duties of said officers
8 and watchmen shall be the same as are before prescribed in the
9 case of a constable's watch. R. S., c. 31, § 7.

SECT. 8. If any person, liable to watch and ward, being duly
2 warned by the officer of the watch, or the constable, or by any
3 person appointed by any such officer, or constable, shall refuse
4 or neglect to appear and perform his duty, either by himself or
5 by a sufficient substitute, without a just and reasonable excuse
6 for the same, he shall forfeit, for each offense, a sum not less
7 than one, nor more than ten dollars, to the use of the town.

R. S., c. 31, § 8.

SECT. 9. If any constable, or officer of the watch, shall
2 neglect or refuse to observe and execute the orders given him,
3 he shall forfeit a sum not less than ten dollars, to the use of
4 the town. R. S., c. 31, § 9.

SECT. 10. Whenever the said justices of the peace and select-
2 men shall think fit to walk by night, to inspect the order of the
3 town wherein they dwell, or shall depute any portion of their
4 number for the purpose, such of the said constables and watch-
5 men shall attend them, or said deputation, as shall be required
6 to do the same; and obey their lawful commands.

R. S., c. 31, § 10.

SECT. 11. If any person shall ride with a naked sythe,
2 sharpened and hung in a sneath, on the highways, or in any
3 lanes, streets or alleys, he shall forfeit, for each offense, two
4 dollars. R. S., c. 31, § 11.

SECT. 12. If any persons, to the number of three or more,
2 between sun setting and sun rising, being assembled together in
3 any of the streets or lanes in any town, shall have any kind of
4 imagery or pageantry, for a public show, whether armed or
5 disguised, or requiring or receiving money or any thing of value
6 on account of the same, or not, any person, being of such com-
7 pany, shall forfeit the sum of eight dollars, or be imprisoned for
8 a term not exceeding one month. R. S., c. 31, § 12.

SECT. 13. If any person shall set fire to any pile of combus-
2 tible stuff, or be in any wise concerned in causing or making a
3 bonfire in any street or lane, or any other part of any town,
4 such fire being within ten rods of any house or building, he

5 shall, for each offense, forfeit the sum of eight dollars, or be
6 imprisoned for a term not exceeding one month.

R. S., c. 31, § 13.

SECT. 14. The fines, provided for in this chapter, shall be
2 recovered, with costs; the one half of any fine for the use of the
3 town where the offense shall have been committed, and the
4 other half to the use of any person who shall sue for the same.

R. S., c. 31, § 14.

SECT. 15. Masters shall be liable to pay the several fines
2 mentioned in this chapter, for the offenses of their servants or
3 apprentices, if legally bound to them, at the election of the
4 prosecutor; and parents shall be liable, at the like election, for
5 the offenses of the minor children, unless such children are
6 bound to other persons, as servants or apprentices.

R. S., c. 31, § 15.

Chapter 27.

ENGINE MEN, FIRES, AND THE PREVENTION OF FIRES.

ENGINE MEN AND FIRES.

- Sect. 1.* Appointment of engine men in towns where there is an engine for public use, and the number to each engine.
2. Engine men excused from serving as jurors; tenure of office; annual meetings to choose officers, make rules and regulations, and affix penalties.
 3. Officers appointed under special laws to have the same powers as fire wards; towns subject to same liability for damages; firemen to have same privileges and duties as other firemen, but their election not hereby controlled.
 4. Engine companies to meet once a month, and promptly endeavor to extinguish any fire that may occur in their town.
 5. Discharge of negligent engine men, and selection of engine men for other duties at fires.
 6. Election of fire wards, notice to same, and penalty for not entering acceptance or refusal of office in three days.
 7. Duty of fire wards, and in their absence of other civil and military officers to direct proceedings at fires.
 8. Powers of fire wards to require aid, appoint guards and suppress tumults; and penalty for refusing to obey them.
 9. Compensation to owner of building demolished, whereby fire is stopped. Exception. Person dissatisfied may apply to county commissioners. Their powers.
 10. Plundering at fires declared larceny.

PREVENTION OF FIRES.

- Sect.* 11. Penalty for occupying tenement for sail maker, rigger or livery stable, except as municipal officers direct.
12. Municipal officers, on complaint and proof, to direct defective chimneys, stove pipes, and other fire apparatus to be removed or repaired under a penalty.
13. Penalty for lighting or smoking pipe or cigar in mills, factories, shops, ship-yards, bridges and stables, provided a notice is kept up at each entrance. Penalty for destroying such notice.
14. Penalty for kindling fire on land without consent of owner; also, in case fire shall spread and do damage to others.
15. Penalty for kindling fire, with intent to injure another, when the property of another is thereby injured.
16. Lawful fires, on one's own land, to be kindled at suitable time and in careful manner. Liability for all damages if not so done.
17. Lumber drivers may kindle fires, but with the utmost caution. Penalty if they kindle them otherwise.
18. Common law remedy not taken away, except in case provided for in preceding section, but party can only pursue one remedy.
19. Municipal officers to make regulations respecting gunpowder. Penalty for keeping it in violation thereof, and forfeiture and seizure of the powder.
20. Persons injured by explosion of powder, kept contrary to law, may recover damages.
21. Power of municipal officers, with a warrant, to search for illegal gunpowder.
22. Regulations respecting gunpowder not to be in force till published.
23. Penalties, how recovered and appropriated.

Engine Men and Fires.

SECT. 1. When any town, corporation or individuals, shall
 2 possess and keep for public use, any fire engine, the municipal
 3 officers of the town in which the same is kept, are empowered
 4 to appoint any number of suitable persons they may deem
 5 necessary, not exceeding sixty, to an engine having a suction
 6 hose, and not exceeding thirty-five to one without, to be engine
 7 men. R. S., c. 33, § 1.

SECT. 2. Such engine men shall be excused from serving as
 2 jurors in any court, unless their towns otherwise decide; con-
 3 tinue in office during the pleasure of the municipal officers;
 4 meet annually to elect such officers as shall be deemed necessary
 5 to give efficiency to their operations; establish such rules and
 6 regulations respecting their duty as shall be approved by said
 7 municipal officers, and not repugnant to the laws of the state,
 8 and affix penalties, to be recovered by their clerk, not exceeding
 9 six dollars for any one offense. R. S., c. 33, § 3, 5, 22.

SECT. 3. The companies of engine men, appointed as aforesaid, shall meet once every month, and oftener if necessary, for the purpose of examining the state of their engines, and the appendages thereof; and it shall be their duty, by night or by day, without delay, under the direction of the fire wards of the town, to use their best endeavors to extinguish any fire in the same, or the immediate vicinity thereof, that shall come to their knowledge. R. S., c. 33, § 6.

SECT. 4. When any engine man, or any member of a company organized under special laws, shall be negligent in the discharge of his duties, in the opinion of the municipal officers, it shall be their duty, on proof thereof, to discharge him from the said company, and appoint some other person in his stead; and they may, in their discretion, select from the engine men any number, for each engine in said town, whose duty it shall be, under the direction of the fire wards, to attend fires therein with axes, fire hooks, fire sails and ladders, and perform such further duty as said officers shall from time to time prescribe. R. S., c. 33, § 7, 8.

SECT. 5. Each town, at the annual meeting, may elect as many fire wards, as may be deemed necessary; and each person, so chosen, shall be notified in three days, and he shall enter his acceptance or refusal of the office with the town clerk within three days after such notice, on penalty of ten dollars, unless excused by the town; and if excused, the town shall elect another in his room. R. S., c. 33, § 9.

SECT. 6. When a fire shall break out in any town, the fire wards shall immediately attend at the place, with their badges of office; and when there, any three of them shall have power to direct any building to be pulled down or demolished, as they may judge necessary, to prevent the spreading of the fire; but in their absence, the major part of the municipal, or any two civil or military officers present, shall, in the order they are named, have the same power. R. S., c. 33, § 10, 11, 12.

SECT. 7. During the continuance of any fire, said fire wards or other officers shall have power to require assistance, in extinguishing the fire, and removing merchandize and furniture, and to appoint guards to secure the same; and aid in pulling down or demolishing buildings, and suppressing disorder and tumult;

6 and generally to direct all operations to prevent further destruc-
7 tion or damage; and any person refusing to obey their orders
8 shall forfeit the sum of ten dollars. R. S., c. 33, § 13, 14.

SECT. 8. The chief engineer, engineers, fire wards, and other
2 officers appointed for particular localities, under the provisions
3 of special laws, shall have the same power as to pulling down
4 or demolishing any building, to prevent the spreading of fires,
5 and as to other things affecting the extinguishment thereof, as
6 fire wards now have by law; and the town to which they belong
7 shall be liable to pay such compensation for damages consequent
8 upon the acts of such officers, as other towns are liable to pay
9 for similar damages; and the members of the fire department in
10 such localities shall enjoy all the privileges, and be liable to all
11 the duties of other firemen in the state; but nothing herein
12 shall be construed to control the manner of their election.

R. S., c. 33, § 4, 23.

SECT. 9. If the pulling down or demolishing any building,
2 except that in which the fire originated, shall be the means of
3 stopping the fire, or if the fire be stopped before it shall come to
4 the same, then the owner of such building shall be entitled to
5 a reasonable compensation therefor from the town; and if such
6 town fail to make such compensation to his satisfaction, he may
7 apply to the county commissioners at their next session; and
8 they shall have power, after due notice to the parties, to confirm
9 the doings of the town in estimating the amount of compensation,
10 or in raising the money and paying the same, or to alter the
11 same as they shall judge proper, award costs to the prevailing
12 party, and issue their warrant of distress to carry their judgment
13 into effect.

R. S., c. 33, § 15, 16, 17.

SECT. 10. If any person shall steal, carry away, or conceal
2 any property not his own at any fire, or exposed by reason
3 thereof, and shall not give notice of the same to the owner, or
4 one of the fire wards, he shall be deemed guilty of larceny, and
5 punished accordingly.

R. S., c. 33, § 18.

Prevention of Fires.

SECT. 11. No person shall occupy any tenement, in any
2 maritime town, for the business of a sail maker, rigger, or

3 keeper of a livery stable, except only in such part of the town
 4 as the municipal officers shall direct; and any person who shall
 5 offend against this section, shall forfeit ten dollars a month
 6 during the continuance of such occupancy, with costs.

R. S., c. 33, § 19, 20.

SECT. 12. When any chimney, stove, stove pipe, oven,
 2 furnace, boiler, or appurtenances thereto, in any town, shall be
 3 defective, out of repair, or so placed in any building as to
 4 endanger the same, or any other building, by communicating
 5 fire thereto, the municipal officers, on complaint of any fire ward,
 6 or other citizen of such town, being satisfied by examination, or
 7 other proof, that such complaint is well founded, shall give
 8 notice in writing to the owner or occupier of the building in
 9 which such stove or other apparatus is placed, and if he shall
 10 unnecessarily neglect, for three days, to remove or repair the
 11 same effectually, he shall forfeit not less than ten, or more than
 12 one hundred dollars. 1852, c. 218.

SECT. 13. No person shall enter any mill, factory, machine
 2 shop, ship yard, covered bridge, stable or other building, having
 3 with him a lighted pipe or cigar, or shall light or smoke any
 4 pipe or cigar therein, under a penalty of five dollars; *provided*
 5 a notice, in plain and legible characters, shall be kept up in a
 6 conspicuous position over or near each principal entrance to such
 7 building or place, that no smoking is allowed in the same; and
 8 if any person shall deface, remove or destroy any such notice,
 9 he shall forfeit ten dollars. 1848, c. 39, § 1, 2.

SECT. 14. If any person shall kindle a fire by the use of fire
 2 arms, in hunting or fishing, or by any other means, on land not
 3 his own, without consent of the owner, he shall forfeit ten
 4 dollars; and, if such fire shall spread and do any damage to the
 5 property of others, he shall forfeit a sum not less than ten, or
 6 more than five hundred dollars and costs, according to the
 7 aggravation of the offense; and, in either case, shall stand com-
 8 mitted till the fine and costs are paid. 1855, c. 132, § 1, 2, 5.

SECT. 15. If any person, with intent to injure another, shall
 2 kindle, or cause to be kindled, a fire on his own or another's land,
 3 and thereby the property of any other person shall be injured or
 4 destroyed, he shall be punished by a fine of not less than

5 twenty, or more than one thousand dollars, or by imprisonment
6 not less than three months, or more than three years, according
7 to the aggravation of the offense. 1855, c. 132, § 3.

SECT. 16. Whoever shall, for a lawful purpose, kindle a fire
2 on his own land, shall do so at a suitable time, and in a careful
3 and prudent manner; and shall be liable in an action on the
4 case, to any person injured by his failure to comply with the
5 provisions of this section. 1855, c. 132, § 4.

SECT. 17. Persons engaged in driving lumber, upon any
2 waters, may kindle fires when necessary for the purposes in
3 which they are engaged, but shall be bound to use the utmost
4 caution to prevent the same from spreading and doing damage,
5 and if they fail so to do, they shall be subject to all the liabilities
6 and penalties hereof, in the same manner as if the privilege
7 granted by this section had not been allowed. 1855, c. 132, § 6.

SECT. 18. The common law right to an action for damages
2 done by fires, is not hereby taken away or diminished, but it
3 may be pursued, notwithstanding the penalties herein set forth,
4 but any person availing himself of the provisions of the sixteenth
5 section, shall be barred of his action at common law for the
6 damage so sued for. And no action shall be brought at common
7 law for kindling fires in the manner described in the seventeenth
8 section, but if any such fire shall spread and do damage, the
9 person who kindled the same, and any person present and
10 concerned in driving the lumber, by whose act or neglect such
11 fire is suffered to do damage, shall be liable in an action on the
12 case, for the amount of the damage thereby sustained.

1855, c. 132, § 7.

SECT. 19. In every town, the municipal officers are authorized
2 to make regulations, in conformity to which all gun powder
3 within the town shall be kept, or transported from place to
4 place; and no person shall keep any gun powder in any other
5 quantity or manner than is prescribed in such regulations,
6 under a penalty of not less than twenty, or more than one
7 one hundred dollars, for each offense; and all such gun powder
8 may be seized by any of said officers, as forfeited; and, within
9 twenty days after such seizure, be libeled according to law.

R. S., c. 34, § 1, 2, 3.

SECT. 20. Any person injured by the explosion of gun powder in possession of any person in any town, contrary to the regulations established therein as aforesaid, may have an action for damages against the person having such possession at the time of the explosion, or against the owner thereof, if conusant of such neglect. R. S., c. 34, § 4.

SECT. 21. Any municipal officer shall have authority to enter any building or other place, in his town, to search for gun powder, supposed to be concealed there, contrary to law; having first obtained a search warrant for the purpose, in due form.

R. S., c. 34, § 5.

SECT. 22. The rules and regulations, which shall be established in any town, according to the nineteenth section, shall not be in force, till they have been published three weeks successively, in a newspaper in the county, or by posting up attested copies of them in three public places in such town.

R. S., c. 34, § 8.

SECT. 23. The penalties, provided for in this chapter, may be recovered by complaint, indictment or action of debt in any court of competent jurisdiction, one half to the use of the town where the offense is committed, and the other half to the use of the person prosecuting therefor.

R. S., c. 33, § 21. R. S., c. 34, § 7.

Chapter 28.

INNOLDERS AND VICTUALERS.

- Sect.* 1. Licenses to innholders and victualers, when and by whom granted.
2. Persons licensed to givo bond; form thereof.
 3. Licenses may be granted for a part of the year in certain cases.
 4. Fee for license, and record of all licenses.
 5. Duty of innholders to provide entertainment.
 6. Duty of victualers.
 7. Innholders and victualers to keep up signs with their names and employments.
 8. Not to keep instruments of gaming, or allow any gaming on their premises.
Penalty for gaming in said premises.
 9. Reveling, disorderly conduct and drunkenness prohibited in such premises.

Sect. 10. Penalty for being a common innholder or victualer without a license.

11. Duty of licensing board to prosecute for all violations hereof. Penalties, how recovered and appropriated.

SECT. 1. The selectmen, treasurer and clerk of every town, 2 shall, annually, meet on the first Monday of May, or on the 3 succeeding day, or both, and at such time and place in said town 4 as they may appoint, by posting up notices in two or more public 5 places therein, at least seven days previously, stating the purpose 6 of the meeting; and at such meeting may license under their 7 hands as many persons of good moral character, and under such 8 restrictions and regulations as they may deem necessary, to be 9 innholders and victualers in said town, until the day succeeding 10 the first Monday in May of the next following year, in such 11 house or other building as the license may specify.

R. S., c. 36, § 1.

SECT. 2. No person shall be entitled to receive his license 2 until he shall have given his bond to the said treasurer, to the 3 acceptance of the board granting the same, with one or more 4 sureties, in the penal sum of three hundred dollars, in substance 5 as follows, viz:

“Know all men, that we, —, as principal, and —, as 7 sureties, are holden and stand firmly bound to —, treasurer 8 of the town of —, in the sum of three hundred dollars, to be 9 paid to him, or his successor in said office; to the payment 10 whereof we bind ourselves, our heirs, executors and adminis- 11 trators, jointly and severally by these presents. Sealed with 12 our seals. Dated the — day of —, in the year 18—. 13 The condition of this obligation is such, that whereas the above 14 bounden — has been duly licensed as a — within the said 15 town of —, until the day succeeding the first Monday of May 16 next; now if the said — shall, in all respects, conform to the 17 provisions of the law relating to the business for which he is 18 licensed, and to such rules and regulations as have been provided 19 by the board granting his license, in reference thereto, then this 20 obligation shall be void, otherwise shall remain in full force.”

R. S., c. 36, § 2.

SECT. 3. The said licensing board may, at any other time, 2 at a meeting specially called and notified as aforesaid, for the

3 consideration of any application therefor to them made, grant
4 such license on the like conditions; but all such licenses shall
5 expire on the day aforesaid. R. S., c. 36, § 3.

SECT. 4. Every person licensed shall pay to the treasurer for
2 the use of the board granting the license, one dollar; and the clerk
3 shall make a record of all the licenses granted. R. S., c. 36, § 4.

SECT. 5. Every innholder shall at all times be furnished with
2 suitable provisions and lodging for strangers and travelers, and
3 with stable room, hay and provender for their horses and cattle;
4 and with pasturing, if required by the terms of his license; and
5 it shall be his duty to grant such reasonable accommodations as
6 occasion may require, to strangers, travelers and others.

R. S., c. 36, 5.

SECT. 6. Every victualer shall have all the rights and priv-
2 ileges, and be subject to all the duties and obligations of an
3 innholder, excepting that he shall not be required to furnish
4 lodging for travelers, nor stable room, hay or provender for
5 cattle.

R. S., c. 36, § 6.

SECT. 7. Every innholder and victualer shall at all times have
2 a board or sign affixed to his house, shop, cellar or store, or in
3 some conspicuous place near the same, with his name at large
4 thereon, and the employment for which he is licensed.

R. S., c. 36, § 7.

SECT. 8. No innholder or victualer shall have or keep about
2 his house, shop, or other buildings, yards, gardens or dependen-
3 cies, any dice, cards, bowls, billiards, quoits or other implements
4 used in gaming; or suffer any person resorting thither, to use
5 or exercise any of said games, or any other unlawful game or
6 sport therein; and every person who shall use or exercise any
7 such game or sport in any place herein prohibited, shall forfeit
8 five dollars.

R. S., c. 36, § 8, 9.

SECT. 9. No innholder or victualer shall suffer any reveling,
2 riotous or disorderly conduct in his house, shop or other depen-
3 dencies; nor shall suffer any drunkenness or excess therein.

R. S., c. 36, § 10.

SECT. 10. No person shall be a common innholder or victualer
2 without being licensed, as aforesaid, under a penalty of not more
3 than fifty dollars.

R. S., c. 36, § 17.

SECT. 11. It shall be the duty of the licensing board to prosecute for any violations of this chapter that shall come to their knowledge, by complaint, indictment, or action of debt, in any court of competent jurisdiction; and all penalties recovered shall be for the use of the town where the offense is committed.

R. S., c. 36, § 19, 20, 21.

Chapter 29.

SUPPRESSION OF DRINKING HOUSES AND TIPPLING SHOPS.

PROHIBITIONS AND APPOINTMENT, REMOVAL, POWERS AND DUTIES OF AGENTS.

Sect. 1. Manufacture, sale and keeping of intoxicating liquors, except by agents, prohibited. Meaning of the term. Appointment, removal, and compensation of agents. He must conform to rules, keep account of purchases and sales, and make sworn returns to the board to be laid before the legislature. Prohibited from selling to certain persons, and having any interest in the liquors or profits. His character. Exhibit his appointment and accounts. Penalty for violation of this section. His bond and its form. Breach of bond and suit therefor.

PENALTIES FOR SINGLE SALES.

2. Penalties for single sales for first, second, third and fourth offense, and additional imprisonment if fines not paid. Liability of clerks, servants and agents.

MANUFACTURERS, APOTHECARIES AND PEDLERS.

3. Penalties for manufacturing intoxicating liquor for first, second and third offenses.

4. Apothecaries prohibited from keeping or using liquors except for medicines prescribed by physicians, or allowing them to be drunk on their premises, or carried away. Artists and manufacturers prohibited from using liquors except for ordinary purposes of their business, and from allowing them to be drunk on their premises or carried away. Penalties for a violation of this section.

5. Penalties for pedlers carrying liquors, or medicines mixed with intoxicating liquors, for unlawful sale. Such persons liable to arrest and search, and their liquors to seizure and forfeiture.

TRANSPORTATION OF LIQUORS THROUGH THE STATE AND WITHIN THE STATE.

6. Liquors, in transitu, not to be kept in any town more than twenty-four hours; if they are, liable to seizure and forfeiture. The claimant shall specify the place to which they are to be carried, and if laws of that place prohibit their introduction, it shall be evidence of unlawful intent to sell in this state.

7. Penalties for stage drivers, expressmen and other agents carrying liquors from place to place. Carrying prima facie evidence of unlawful intent.

SEARCH AND SEIZURE.

- Sect. 8.* On complaint of three competent persons, a magistrate may issue a warrant to search any place except dwelling-house. Promises to be described in complaint and in warrant. Duty of officer to search, seize the liquors, if found, describe them in his return, and arrest the keeper. Defense of keeper, and liquors restored if it is established. If not established, liquors to be condemned and destroyed, and keeper fined and imprisoned. This adjudication a bar to any claim for such liquors or their value. Officer to make return of destruction. If the liquors are kept for unlawful sale by person not named in the complaint, they are not to be restored.
9. When liquors are seized and no owner or keeper is arrested, the officer shall libel them. Form of libel. The magistrate shall issue a monition. Form thereof. Time of hearing. Monition how served. If no claimant appear, liquor to be destroyed or restored. If one appear, he shall make his claim in writing and under oath. Form thereof.
10. If claimant reside in the state, he must make his claim personally, if not, by agent, who shall give bond for costs, and show that the liquors were kept for a lawful purpose. Libellant to have the closing argument. Proof may be by witnesses or depositions. Liquors to be destroyed or restored according to the proof. What costs shall be allowed. Form of order to destroy and to restore. If the whole of liquors seized are not claimed, they shall be destroyed. These proceedings a bar to any action. Either party may appeal. Claimant liable to charge of unlawful keeping of liquor.

SEARCH OF DWELLING-HOUSES.

11. Warrant not to issue for the search of dwelling-houses, till shown by testimony, in writing and under oath, that liquors are kept there for unlawful sale. Proceedings then to be as in other cases. What is not a dwelling-house. Finding liquors in dwelling-house not evidence that they are kept for unlawful sale.

LIQUORS DESTROYED TO PREVENT SEIZURE.

12. If liquors are poured out to prevent their seizure, the officer shall return the fact and the quantity, and the owner or keeper shall be dealt with the same as if they had not turned out.

SEARCH OF TENTS AND OTHER TEMPORARY STRUCTURES.

13. Duty of municipal and police officers to prosecute for offenses against this chapter, and to enter complaints against tents and other temporary structures near public assemblies, when they believe liquor is kept there for unlawful sale. Magistrate to issue a warrant and officer to search. Penalty if liquor is found and is intended for unlawful sale. Same forfeited and to be destroyed. Said officers may take such liquors without warrant, and detain them till one can be procured.

APPEAL UNDER SECTIONS EIGHT, TEN AND THIRTEEN.

14. Persons sentenced by magistrate may appeal, and the same sentence is to be passed in appellate court, both as to person and liquor, as magistrate was authorized to impose. If appellant does not appear, recognizance forfeited.

MARKS OF LIQUORS OWNED BY TOWNS, ARTISTS AND MANUFACTURERS.

15. Liquors owned by towns, artists and manufacturers not protected from seizure, unless all casks are marked. Penalty for agent fraudulently marking liquors not owned by his town, and such marking conclusive evidence that they are kept for unlawful sale. Adulterated liquors not protected from seizure.

ALLEGATIONS, PROOF, LIABILITY OF PARTNERS, CLERKS, AGENTS AND OFFICERS, AND WRITS OF ERROR.

Sect. 16. Delivery sufficient evidence of sale. Partner liable for unlawful sales by co-partner and others with his consent. Principal, agent, clerk and servant may all be included in one process. How liquors and persons shall be described in a search warrant. Municipal officers to commence suits on bonds and recognizances. Action on the case in name of the town against the officer for neglect to execute final process and amount of judgment therein.

17. No writ of error shall lie to make void doings of magistrates for any amendable defects. Fees allowed to magistrates and officers.

DISPOSAL OF INTOXICATED PERSONS.

18. Any intoxicated person found in the street, or elsewhere disturbing the peace, may be put in a watch-house till a warrant can be had. Punishment if found guilty. Released, if he will give evidence against the person who furnished him the liquor.

JURISDICTION OF COURTS, AND APPEALS.

19. Penalties, in what courts to be recovered. Bonds and recognizances accrue to the state. Same powers conferred on appellate courts as on the magistrates.
20. Conditions of appeal and amount of recognizance in cases not otherwise provided for. No recognizance to be taken except by magistrate who tried the case.

JURORS.

21. Persons engaged in unlawful traffic in intoxicating liquors disqualified from acting as jurors in cases under this chapter. To be ascertained by inquiry. The juror may decline to answer. Answer not to be evidence against him. If he answer falsely, incapable of serving as juror again.

PROCEEDINGS IN COURT.

22. Cases under this chapter to have precedence of all others, except where parties under arrest, and nol. pros. or continuance not to be entered, except when justice requires it.
23. Recognizances to be defaulted first or second day of criminal trials, unless appellant appear. May be taken off, on terms, before jury dismissed. Warrant of distress to be issued on all defaulted recognizances for the full amount, without scire facias. When frivolous exceptions filed, judge may so certify, and proceed to pass sentence.

WHO MAY BE SURETIES—LIEN ON THEIR REAL ESTATE.

24. No person to be surety, unless he swears he is worth double the amount required. Oath to be appended to recognizance. Lien created on real estate. Persons taking recognizances to send certificate to registers of deeds. Form thereof. Register to record the same. Fees therefor.

FALSE SWEARING, NEGLECT OF DUTY BY OFFICERS, TECHNICAL ERRORS.

25. False swearing under this chapter punishable as perjury. Penalty for public officer neglecting his duty, and how recovered and appropriated. No proceedings to be void for any technical errors, but may be amended. All fines and penalties, and costs, to be paid into county treasury for the state.

COMMON SELLERS.

26. Penalties for common seller. Four sales sufficient. What other evidence sufficient without four sales.

FEES AND OTHER PROVISIONS.

- Sect.* 27. Appealed cases to be conducted by prosecuting officer of the State, and he may receive costs on conviction, but none to be remitted. Former conviction need not be set forth particularly. Matters of form amendable at any stage.
28. The use of liquors in their business by chemists, artists and manufacturers. The manufacture of cider or wine and sale thereof by manufacturer for certain purposes, not prohibited.
29. Liquors for agents to be purchased by municipal officers. County commissioners to allow and pay bills of cost. Imprisonment may be in jail or house of correction. Fees of officers and others. Whenever fine and imprisonment are affixed, both to be imposed.

FORMS.

30. Magistrate may make warrant returnable before himself, or, in his inability, before some other. Warrant under section eleven. Form for common seller. Forms of complaint and warrant in case of search and seizure. Complaint for single sale, and warrant and recognizance for same. Recognizance in case of seizure. Forms of mittimus.

CIVIL REMEDIES.

31. All compensations for liquors unlawfully sold, may be recovered back by an action on the case or otherwise.
32. Different kinds of payments may be joined in one count, and no objection that the payment was for joint use of defendant and another, or that defendant was under twenty-one, married woman, or agent, and full costs, though damages are less than twenty dollars.
33. Defendant not allowed any set off, and no action shall be defeated by settlement or release made by purchaser, unless seller has paid the full amount. Note not a payment.
34. The purchaser may be a witness for plaintiff; cause of action shall survive, and plaintiff may tender his oath in writing, and defendant also.
35. Plaintiff may, in his writ, ask for disclosure of defendant, if made, may go to the jury; but if he neglects to make it, or does not absolutely deny the sale, he shall recover no cost, but such disclosure shall not be used against him in any other case.
36. How property recovered by a guardian, administrator or creditor shall be appropriated.
37. Execution in such actions to run against the body, though less than ten dollars; clerk to minute thereon the cause of action, and debtor shall not give bond, but be committed, and on only one at a time. He shall not apply for poor debtor's oath, till fifteen days after commitment.
38. All contracts respecting property, all notes and securities, which, in whole or in part, originated on account of intoxicating liquors, unlawfully sold, shall be void, except as to bona fide purchasers of lands, and holders of notes.
39. No action shall be maintained for liquors sold out of the state, except for agencies, or for the recovery, possession, injury or value of liquors sold, or intended to be sold in violation of law.

Prohibitions and appointment, removal, powers and duties of Agents.

SECT. 1. The manufacture, sale, keeping or depositing for
2 sale of intoxicating liquors, is prohibited, except as is hereinafter
3 provided. The term intoxicating liquor as herein used, includes
4 every liquid preparation that will produce intoxication. No
5 such liquors shall be sold except for medicinal and mechanical
6 uses, by agents duly appointed for that purpose, as herein
7 provided. Such agents may sell to the municipal officers of
8 towns, for the supply of agencies therein. No other person
9 shall sell such liquors for any purpose. Agents shall be
10 appointed by the municipal officers of towns, as soon after the
11 annual meeting in each year as may conveniently be done, to
12 hold their offices one year, and until others are appointed in
13 their place, unless sooner removed; but no more than one such
14 agent shall be appointed in any town for the same time. The
15 appointing board have the power of removal. Vacancies by
16 removal or otherwise, shall be filled as soon as may be. The
17 compensation of the agent shall be such as the board shall
18 prescribe. He shall conform to such rules and regulations, in
19 the sales of liquors, as the law provides, and as the board shall
20 prescribe, not inconsistent herewith; which rules and regula-
21 tions, and also his appointment, shall be in writing, and shall
22 within seven days after the appointment, be recorded in the
23 records of the town. He shall sell only for cash, and shall keep
24 an accurate account of all purchases made for him by said
25 board, with the date, the quantity and price of each purchase or
26 parcel; also, of every sale by him made, with the name of the
27 purchaser, the purpose for which purchased, the quantity, price
28 and date of the sale, which account shall always be open to the
29 inspection of said board. He shall annually on the first day of
30 December, make a report, by him signed and sworn to, to said
31 board, of the quantity of each kind of liquor sold by him for the
32 year ending that day, and of the amount of money received for
33 the same, and said board shall, before the twentieth day of said
34 December, transmit a certified copy of the same to the Secretary
35 of State, to be by him laid before the legislature. He shall not

36 sell to any one unless he knows him to be an inhabitant of his
37 town; to any minor, servant or apprentice, without the written
38 order of his parent, guardian or master; to any Indian, or
39 intemperate person; or to any person by reason of having himself
40 prescribed the medical use of the liquors sold. He shall have
41 no interest in the liquors sold, or in the profits of the agency.
42 He shall be a person of sober life, and not addicted to the use of
43 intoxicating liquors. No one who has been convicted of selling
44 liquor contrary to law, no inn holder, tavern keeper or trader,
45 shall be appointed such agent. He shall, whenever requested
46 by any justice of the peace of his county, exhibit to him his
47 appointment, and the accounts of the purchases and sales, and
48 permit him to take minutes or copies of the same. If the justice
49 find that he has violated any of the provisions hereof, he may
50 require the appointing board to inquire into the charge, and, if
51 sufficient cause appear, they shall remove him, and put his bond
52 in suit. If such agent knowingly violate any of the provisions
53 of this section, he shall be liable to be indicted and punished as
54 a common seller. Before entering upon the duties of his office,
55 he shall give a bond to the town, with two good and sufficient
56 sureties, in a sum not less than six hundred dollars, which bond
57 shall be in substance as follows:

“Know all men, that we, — as principal, and — and —
59 as sureties, are holden and stand firmly bound to the inhabitants
60 of the town of —, [or city, as the case may be,] in the sum
61 of — hundred dollars, to be paid to them, to which payment
62 we bind ourselves, our heirs, executors and administrators,
63 firmly by these presents. Sealed with our seals, and dated
64 this — day of —, A. D. —.

“The condition of this obligation is such, that whereas the above
66 bounden — has been duly appointed an agent for the town
67 [or city] of — to sell within, and for and on account of said
68 town [or city] intoxicating liquors for medicinal and mechanical
69 purposes and no other, until the — of —, A. D. —,
70 unless sooner removed from said agency.

“Now if the said — shall in all respects conform to the
72 provisions of the law relating to the business for which he is
73 appointed, and to such rules and regulations as now are or shall

74 be from time to time established by the board making the
75 appointment, then this obligation to be void; otherwise to remain
76 in full force."

The appointing board, whenever complaint shall be made to
78 them that a breach of the conditions of such bond has been com-
79 mitted, shall notify the agent thereof, and if upon a hearing of
80 the parties, it shall appear that a breach has been committed,
81 they shall revoke his appointment. And whenever a breach of
82 such bond shall in any manner come to the knowledge of said
83 board, they or some one of them shall, at the expense and for
84 the use of said town, cause the bond to be put in suit in any
85 court proper to try the same. 1855, c. 166, § 1.

Penalties for single sales.

SECT. 2. If any person shall, by himself, clerk, servant or
2 agent, sell any intoxicating liquors in violation of this chapter,
3 he shall, for the first conviction, pay a fine of twenty dollars and
4 costs, and be imprisoned thirty days; for the second conviction,
5 he shall pay the same fine, and be imprisoned sixty days; for
6 the third conviction, he shall pay the same fine, and be im-
7 prisoned ninety days; for the fourth and every subsequent
8 conviction, he shall be deemed a common seller, and pay a fine
9 of two hundred dollars and costs, and be imprisoned six months;
10 and in default of the payment of the fines and costs prescribed
11 by this section, for the first, second and third convictions, the
12 convict shall not be entitled to release under the general law
13 until he shall have been imprisoned two months; and in default
14 of payment of fines and costs provided for the fourth and every
15 subsequent conviction, he shall not be entitled to such release
16 until he shall have been imprisoned four months after the said
17 six months. And if any clerk, servant, agent or other person
18 in the employment or on the premises of another, shall sell as
19 aforesaid, he shall be held equally guilty with the principal.

1855, c. 166, § 2.

Manufacturers, Apothecaries and Pedlers.

SECT. 3. No person shall be allowed to be a manufacturer of
2 any intoxicating liquor, on pain of forfeiting, on the first con

3 viction, the sum of two hundred dollars and costs of prosecution
4 and six months imprisonment; and on the second conviction,
5 the sum of four hundred dollars and costs of prosecution, and
6 nine months imprisonment; and on the third and every subse-
7 quent conviction, the sum of one thousand dollars and costs and
8 imprisonment one year in the state prison. 1855, c. 166, § 3.

SECT. 4. No apothecary or druggist shall keep or use any
2 such liquors for any other purpose than the preparation of med-
3 icines ordered by a physician of sober life and not addicted to
4 the use of intoxicating liquors, whose name shall be subscribed
5 to the prescription to be put up or prepared by such druggist or
6 apothecary, in his own shop; and he shall not suffer any such
7 liquor to be drank on his premises, or to be carried away to be
8 drank or used elsewhere. No artist or manufacturer shall keep
9 or use such liquors for any other purposes than the common uses
10 made thereof in his art or manufactory, and he shall not suffer
11 any such liquors to be drank on his premises or to be carried
12 away therefrom. If any person, shall violate any of the provi-
13 sions of this section, he shall, for the first conviction, be punished
14 by a fine of one hundred dollars and costs, and three months
15 imprisonment; and for the second and every subsequent convic-
16 tion, by a fine of two hundred dollars and costs, and six months
17 imprisonment. 1855, c. 166, § 4.

SECT. 5. No person shall travel from place to place in this
2 state, conveying with him personally or in any carriage or vehi-
3 cle, any intoxicating liquors, including every kind of beer, cor-
4 dial, and liquid preparations, purporting to be medicinal, a part
5 of which is composed of intoxicating liquors, with the intention
6 to sell or use the same, in any manner herein forbidden, under
7 the same penalties for the first and each subsequent conviction
8 as are provided in section two. Any person offending against
9 the provisions of this section, shall be liable to be arrested on a
10 warrant, and his person, carriage or vehicle may be searched,
11 and such liquors, if found thereon, seized. Such complaint and
12 warrant, and the subsequent proceedings thereon, shall be sub-
13 stantially the same as are provided in cases of arrest, search,
14 and seizure of liquors kept and deposited in the manner herein
15 forbidden. 1855, c. 166, § 5.

Transportation of Liquors through the State and within the State.

SECT. 6. All such liquors brought into this state, for the purpose of being conveyed through it to places beyond its borders, shall not be kept or deposited in any town therein, for the space of more than twenty-four hours, Sunday excepted, except in case of inevitable accident, and if so kept, shall be liable to be seized and forfeited, as being kept and deposited for unlawful sale; and if so seized, and proceeded with as herein directed, and the respondent shall claim in defense that such liquors were in transitu, and not intended for sale in this state, it shall be sufficient to show on the other side that they were kept or deposited in any town therein, for the space of more than twenty-four hours. And such claimant shall also set forth in his claim the name of the place to which they were about to be carried, and if on trial it shall appear, that the liquors are of such description, as to the quantities of the casks or packages in which they are contained, or in other respects as are by the revenue or other laws of the province or state to which they were so to be carried, prohibited to be introduced therein, that fact shall be sufficient evidence that they were kept and deposited for unlawful sale within this state. 1855, c. 166, § 6.

SECT. 7. No stage driver, expressman, common carrier, teamster, or other agent, shall carry from place to place within this state any such liquors, except for agencies provided for in this chapter, under a penalty of twenty dollars and costs for the first conviction, twenty dollars and costs and thirty days imprisonment for the second conviction, two hundred dollars and costs and three months imprisonment for the third conviction, and four hundred dollars and six months imprisonment for the fourth and every subsequent conviction. Such carrying shall be prima facie evidence of intention to violate the provisions of this section, subject however to such evidence as may be adduced on the part of the defendant to show that he had no such intention.

1855, c. 166, § 7.

Search and seizure.

SECT. 8. If three persons, competent to be witnesses in civil suits, and residents in the county where the complaint is made, shall make complaint to any judge of a municipal or police court, or justice of the peace, that they have reason to believe and do believe, that intoxicating liquors are kept or deposited in any building or place, other than a dwelling house no part of which is used as a shop or for purposes of traffic, by a person named in said complaint, or by a person unknown, not authorized by law to sell the same, within the town where they are alleged so to be, and that said liquors are intended for sale within this state in violation of law, such magistrate shall issue his warrant, directed to any sheriff, deputy sheriff, marshal, deputy marshal, constable or police officer, having power to serve such process, commanding him to search the premises described in said complaint, which premises shall also be described in said warrant; also to search any yard or building, (other than such dwelling house,) adjoining the premises described in said warrant, if occupied by the same person occupying the premises described in said warrant; and if any such intoxicating liquors are there found, to seize the same, with the vessels in which they may be contained, and convey them to some proper place of security to be there kept until final action upon such complaint. And the officer having such warrant shall be authorized by virtue thereof to make the search directed by such warrant, and to seize and dispose of any such liquors as herein provided; and he shall in his return on such warrant, describe the liquors seized, and the vessels in which they are contained, with reasonable certainty. And if the name of the person by whom such liquors are alleged to be so kept or deposited, shall be stated in said complaint, the officer shall be commanded in said warrant, if he find such liquors, to arrest such person and have him forthwith before said magistrate to answer to said complaint, and show cause why said liquors should not be forfeited. The person so arrested may plead not guilty to such complaint, and shew in defense thereto that said liquors were not kept and deposited intended

37 for sale contrary to law, or that they were imported under the
38 laws of the United States, and in accordance therewith; that
39 they are contained in the original packages in which they were
40 imported, and in quantities not less than the laws of the United
41 States prescribe. And such defense being established, the
42 magistrate may order such liquors to be restored to the defend-
43 ant, if satisfied that he is the lawful owner or keeper thereof.
44 But custom house certificates of importation, and proofs of
45 marks on the casks and packages corresponding thereto, shall
46 not be received as evidence that the identical liquors contained
47 in said packages and casks were actually imported therein.
48 And if, upon the trial, neither of said grounds of defense shall
49 be established, and in the opinion of the court, upon the
50 evidence produced, said liquors were kept or deposited by such
51 person for unlawful sale, he shall be punished by a fine of
52 twenty dollars and costs, and thirty days imprisonment, and
53 shall also be imprisoned thirty days in default of payment of the
54 fine and costs. And said liquors, with the vessels in which
55 they are contained, shall be declared forfeited, and such adju-
56 dication shall be a bar to any claim for the recovery of the
57 same, or the value thereof, and they shall, on the written order
58 of said magistrate, be destroyed. And the officer to whom such
59 order is directed, shall make return thereon of his doings in the
60 premises. If, however, upon trial the magistrate shall find the
61 person charged in the complaint, not guilty, or if it shall appear
62 that he is not the lawful owner or keeper thereof, he shall, if
63 satisfied that the liquors seized were kept and deposited for
64 unlawful sale by some person not named in the complaint,
65 decline to order them to be restored, and shall proceed therewith
66 as is hereinafter provided. 1855, c. 166, § 8.

SECT. 9. When any intoxicating liquors shall be seized upon
2 a warrant, under any of the provisions of this chapter, and the
3 person keeping or depositing the same named in the warrant,
4 shall not be arrested, or if the name of the person keeping or
5 depositing the liquors, or from whom the same are taken, is not
6 inserted in said warrant, or if such liquors shall not be restored
7 to the person from whose keeping or possession they were taken,

8 the officer who made the seizure shall proceed to libel them, in
9 substance as follows:

“To A. B., a Justice, &c. The libel of C. D. of —, shews
11 that he has seized certain intoxicating liquors, described as
12 follows: — because the same were kept and deposited at or
13 in [describing the place of seizure] intended for sale within this
14 state, in violation of law, [or because the same were found in a
15 tent or shanty, &c.] Wherefore he prays for a decree of for-
16 feiture of the same, and that the same may be ordered to be
17 destroyed according to the provisions of the statute in such case
18 made and provided.

“[Date.]

[Signed.]”

And thereupon the said magistrate shall issue his monition in
21 substance as follows:

22 “State of Maine. County of —, ss.

23 ~~~~~ To all persons interested in [here insert the descrip-
24 | L. S. | tion of the liquors, as in the libel.] The libel of C. D.
25 ~~~~~ of —, this day filed with me, A. B., Justice, &c.,
26 shews that he has seized said liquors, because, &c. [as in the
27 libel] and prays for a decree of forfeiture, and that the same
28 may be ordered to be destroyed according to the provisions of
29 the statute in that case made and provided.

“You are, therefore, hereby notified thereof, that you may ap-
31 pear before me the said Justice, at —, on —, and then and
32 there shew cause why said liquors should not be decreed for-
33 feited and ordered to be destroyed.

“Given under my hand and seal, &c., &c.

“[Signed.]”

The time for the hearing shall not be less than one or more
37 than two weeks from the date of said monition, and service shall
38 be made thereof by posting up an attested copy of the same in
39 some public and conspicuous place in the town where the seizure
40 was made, at least seven days before said day of hearing. If
41 no claimant shall then appear, the magistrate shall, on proof of
42 notice as aforesaid, by a proper return of the same upon the
43 monition, adjudicate in the premises, and declare said liquors,
44 and the vessels in which they are contained, forfeited, and order
45 them to be destroyed; or order them to be restored, as the case

46 may be; and such adjudication shall be a bar to any claim for
47 the recovery of the same or the value thereof.

And if any person shall then appear and claim said liquors, or
49 any part thereof, as his own property, he shall make said claim
50 in writing, in substance as follows:

“E. F. of —, comes and avers that he is the lawful owner
52 of [here insert the particular liquors or parcels claimed, as set
53 forth in the libel] in the libel in that behalf mentioned; and he
54 avers that the same were not kept or deposited for the purpose
55 of unlawful sale within the state of Maine, as in said libel is set
56 forth. Wherefore he prays that the same may be restored to him.

“[Date.] [Name.]”

And he shall verify his claim by oath, in substance as follows:

“I, E. F., do swear to the truth of the claim, by me above
60 interposed.

“[Date.] [Name.]”

“Subscribed and sworn before me.

“A. B., Justice of the Peace.”

1855, c. 166, § 9.

SECT. 10. If the claimant be a resident within this state, he
2 shall, personally, in presence of the court, sign and make oath
3 to his claim, unless in case of actual bodily disability, in which
4 case the claim may be signed and sworn to before any justice of
5 the peace within the state.

If the claimant be not a resident of this state, the claim and
7 verification may be made, in substance as above, by the person
8 in whose custody said liquors were kept and deposited, at the
9 time of the original seizure. If there be more claimants than
10 one, each shall set forth and verify his claim, in substance as
11 aforesaid. Such claimant in behalf of persons not residing in
12 the state, shall, before a hearing is had, deliver to the magistrate
13 a bond by him signed, with two good and sufficient sureties,
14 inhabitants of the state, in a sum not less than two hundred
15 dollars, conditioned to pay all such costs as shall be recovered
16 against him on final judgment in the case; and thereupon proofs
17 may be introduced, and the claimant shall be held to show affir-
18 matively, that the liquor, by him claimed, was kept and deposited
19 for a lawful purpose, and not for unlawful sale or use; but the

20 libellant shall have the closing argument. The proof introduced
 21 on either side may be by testimony of witnesses before the
 22 court, or by depositions taken according to law. It shall be a
 23 sufficient cause for the taking of such deposition, that it is to be
 24 used in the trial of a libel for liquors seized, before [here insert
 25 the name of the justice, &c.,] in which the said [here insert the
 26 name of the claimant] is claimant. And if upon the hearing,
 27 the court shall adjudge that said liquors or any part thereof
 28 were kept or deposited for the purposes of unlawful sale or use
 29 within this state, judgment shall be entered accordingly, that
 30 the said liquors, and the vessels in which they are contained,
 31 shall be forfeited and destroyed, and for costs against such claim-
 32 ant; and if the court shall adjudge that the said liquors or any
 33 part thereof were not so kept or deposited, judgment shall be
 34 entered accordingly; and if the claimant shall show to the sat-
 35 isfaction of the court that he is the owner or lawful agent of the
 36 owner for this purpose, the court shall order the same to be re-
 37 stored to the claimant; but no costs shall be allowed him, unless
 38 the court shall certify that there was no probable cause for the
 39 seizure; and no cost shall in any event be allowed to any claim-
 40 ant, if the judgment of the court shall be that any part of the
 41 liquor seized was kept or deposited for unlawful sale or use
 42 within this state. In the costs so to be taxed and paid by the
 43 claimant, shall be included, in addition to court, officer and wit-
 44 ness fees, all reasonable costs and expenses of seizing, removing
 45 and taking care of said liquor until final judgment. The order
 46 to destroy such liquor, may be in substance as follows:

“State of Maine, ——— ss. [Date.]

“To A. B., &c.; having in custody the liquor described in the
 49 libel filed before me, dated ————, 185—, signed by
 50 ———.

“You are hereby commanded in performance of the final judg-
 52 ment of the court in said case, to destroy [here describe all
 53 packages and parcels to be destroyed] by pouring the same out
 54 upon the ground; and also to destroy the vessels in which the
 55 same are contained; and you are to take with you as witnesses
 56 thereof, A. B. and C. D., and to make due return of this order,

57 with their certificate that they witnessed its full execution, en-
58 dorsed thereon, within twenty-four hours from the date hereof.

[Signed.]”

And if the final judgment shall be, that the liquors be restored
61 to the claimant, the order shall be the same, in substance, as
62 before, except, that it shall be to restore [here describe each
63 parcel to be restored] to E. F., the claimant of the same, on
64 reasonable request, at the place where the same are by you now
65 held in keeping, and take his receipt for the same, and make
66 due return of this order within twenty-four hours thereafter.

If the said liquor shall not be demanded of the said officer
68 within three months after the date of such order, the officer shall,
69 without further precept, destroy the same and make return
70 thereof on the said order.

And if the whole or any part of the liquors described in such
72 libel, shall not be claimed by any person as aforesaid, the said
73 court shall adjudge that the same be forfeited and destroyed, and
74 shall issue an order for this purpose, in substance as before pro-
75 vided. And these proceedings shall be a bar to any claim for
76 the recovery of the same or the value thereof.

The claimant or libellant may appeal.

Any such claimant in his own right or as the agent of the ow-
79 ner, shall be liable to be arrested upon a warrant duly issued,
80 and tried for keeping or depositing such liquors contrary to
81 law, either before or after final judgment on such libel.

1855, c. 166, § 10.

Search of Dwelling-houses.

SECT. 11. No warrant shall issue for the search of any dwell-
2 ling-house in which a family resides, or in which, or part of
3 which, a shop or other place for the sale of such liquors is not
4 kept, unless it shall first be shown to the magistrate, by the
5 testimony of witnesses upon oath, that there is reasonable ground
6 for believing that such liquors are kept or deposited in such
7 dwelling-house or its appurtenances, intended for unlawful sale,
8 which testimony the magistrate shall reduce to writing, and
9 cause to be signed and verified by oath or affirmation of such

10 witnesses, and upon such testimony, he may, upon complaint of
11 three persons competent to be witnesses in civil suits, and resi-
12 dents of the county, issue his warrant in like manner and form
13 as is provided in the eighth section hereof, commanding the offi-
14 cer to search such dwelling-house and its appurtenances, and if
15 any such liquors are found therein, to seize the same together
16 with the vessels in which they are contained, and also to arrest
17 the owner or keeper thereof, if named in said complaint, and
18 the subsequent proceedings shall be conformable to the require-
19 ments of the eighth, ninth and tenth sections hereof, as the case
20 may be. No dwelling-house, inn, tavern, or other building, in
21 which, or a part of which, a shop is kept for traffic, or an office,
22 bar or other place, for the sale of liquors, shall be entitled to
23 the protection from search provided in this section, but shall be
24 liable to be searched in the manner provided in said eighth
25 section.

The finding of such liquors, upon search in a dwelling-house,
27 shall not of itself be evidence that they are kept or deposited
28 therein, intended for unlawful sale. 1855, c. 166, § 11.

Liquors destroyed to prevent seizure.

SECT. 12. If any officer, having a warrant committed to him,
2 directing him to seize any such liquors and to arrest the owner
3 or keeper thereof, shall be prevented from seizing the liquors by
4 their being poured out or otherwise destroyed, he shall arrest
5 the owner or keeper, bring him before the magistrate, and make
6 return upon the warrant, that he was prevented from seizing
7 the liquors by their being poured out or otherwise destroyed, as
8 the case may be, and therein state the quantity so poured out or
9 destroyed, as nearly as may be, and the magistrate shall put
10 such owner or keeper upon trial; and if it shall appear, by com-
11 petent testimony, that such liquors were so poured out or
12 destroyed, that they were such as were described in the warrant,
13 and were so kept or deposited intended for unlawful sale, and
14 that the person so arrested was the owner or keeper thereof, he
15 shall be sentenced in the same manner he would be if said
16 liquors had been seized on the warrant, and brought before the
17 magistrate by the officer. 1855, c. 166, § 12.

Search of tents and other temporary structures.

SECT. 13. It shall be the duty of any municipal officer, 2 assessor, city marshal or his deputy, constable, police officer or 3 watchman, of any town, to prosecute for all violations of this 4 chapter, and if he shall have information that any intoxicating 5 liquors are kept for sale or sold in any tent, temporary struc- 6 ture, or place of any kind for selling refreshments in any public 7 place, or near the ground of any camp meeting, cattle show, 8 agricultural exhibition, military muster, or public assembly of 9 any kind, and shall believe said information to be true, forthwith 10 to enter a complaint before some judge of a municipal or police 11 court or justice of the peace, against the keeper of such place, 12 alleging in said complaint, that he has reason to believe, and 13 does believe, that such liquors are kept in such place [describing 14 the same] by such keeper, contrary to law. And upon such 15 complaint, the said magistrate shall issue his warrant, command- 16 ing the officer who may serve the same, to search the place 17 described in said complaint, and which shall be described in said 18 warrant.

And if he shall find upon said premises any such liquors, to 20 seize the same, with the vessels in which they may be contained, 21 and to arrest the keeper thereof, and have him with the liquors 22 and vessels so seized, as soon as may be, before said magistrate, 23 to be dealt with according to law.

And the officer to whom said warrant may be committed, shall 25 forthwith execute the same; and said keeper, when arrested, 26 shall be tried thereon, in due course of law, and upon proof that 27 said liquors are intoxicating, that they were found in the 28 possession of the accused in such place, he shall be found guilty, 29 unless he shall prove they were not intended for unlawful sale, 30 and sentenced to be punished by imprisonment for thirty days, 31 and to pay all costs of such proceedings, and the liquors and 32 vessels so seized shall be destroyed by order of the court in the 33 manner herein before provided. Any of the officers aforesaid 34 may take into his custody any such liquors, and the vessels in 35 which they are contained, which he shall find at any place in 36 his town, by day or night, if he have reason to believe they are

37 kept or deposited intended for unlawful sale in this state,
 38 and detain the same until a warrant can be procured, under
 39 which proceedings shall be had against such liquors, and the
 40 owner or keeper, in like manner as is provided in case of such
 41 liquors taken in the places aforesaid. 1855, c. 166, § 13.

Appeal under sections eight, ten and thirteen.

SECT. 14. If any person shall appeal from any sentence of
 2 such magistrate under the preceding section, he shall order him
 3 to recognize in the sum of one hundred dollars, and if under the
 4 eighth and tenth preceding sections, he shall order him to
 5 recognize in the sum of two hundred dollars, with sufficient
 6 sureties for his appearance and for prosecuting his appeal; and
 7 he shall stand committed till the order is complied with. And
 8 said magistrate shall furnish a full copy of all the papers and
 9 proceedings in the case, at the expense of the appellant. And
 10 if judgment is rendered against the appellant in the appellate
 11 court, he shall be punished and the liquors seized, with the
 12 vessels in which they are contained, shall be dealt with and
 13 disposed of as provided in said sections. And if such appellant
 14 shall fail to appear and prosecute his appeal, the recognizance
 15 shall be forfeited, and the liquor shall be disposed of, as afore-
 16 said, by libel or otherwise, by order of said court.

1855, c. 166, § 14.

Marks of liquors owned by towns, artists and manufacturers.

SECT. 15. No such liquors owned by any town, or kept by
 2 any agent thereof, or by any chemist, artist or manufacturer,
 3 shall be protected against seizure and forfeiture by reason of
 4 such ownership, unless all the casks and vessels in which they
 5 are contained shall be at all times plainly and conspicuously
 6 marked with the name of such town, and of its agent, or as the
 7 case may be, with the name, residence and business of every
 8 such chemist, artist, and manufacturer. If any agent shall
 9 knowingly and wilfully, with intent to prevent the same being
 10 seized, or to cause the same to be released, having been seized,
 11 make claim to any such liquors as being the property of his
 12 town, when in fact they are not, he shall on conviction, be

13 sentenced to pay a fine of one hundred dollars and costs, and
14 shall be removed from his office, with forfeiture of his bond.
15 Whenever any such liquors shall be seized, bearing such marks
16 as are herein required to be put upon liquors owned by towns,
17 or by chemists, artists or manufacturers, when such liquors are
18 in fact not so owned, such false and fraudulent marking shall
19 be conclusive evidence that the same are kept or deposited for
20 unlawful sale, and render them liable to forfeiture. The liquors
21 kept for sale by such agents shall not be adulterated or
22 factitious; and if they are adulterated or factitious, they shall
23 not be protected from seizure and forfeiture by reason of being
24 kept for sale by such agents. 1855, c. 166, § 15.

Allegations, proof, liability of partners, clerks and officers, and writs of error.

SECT. 16. Whenever an unlawful sale is alleged, and a
2 delivery proved, it shall not be necessary to prove a payment,
3 but such a delivery shall be sufficient evidence of sale. When-
4 ever an unlawful sale is made by one person, a delivery by
5 another, and payment received by a third, each shall be liable
6 to the penalties hereof for the offense. A partner in business
7 shall be liable for the unlawful keeping or selling of his
8 copartner, done in the copartnership business, or by any other
9 person, in any shop, store or other place of business of such
10 copartnership, with his knowledge and assent. A principal and
11 his agent, clerk and servant, may all be included in the same
12 process. The name of the owner, and the kind and quantity of
13 liquors to be seized, need not be set forth in the complaint and
14 warrant, provided the description is sufficiently certain to show
15 what is intended to be seized. Any municipal officer or assessor
16 may cause a suit to be commenced on any bond or recognizance
17 given under this chapter, in which his town is interested, and the
18 same shall be prosecuted to final judgment unless paid in full
19 with costs. If any execution or other final process, issued in
20 any civil or criminal suit instituted under this chapter, shall be
21 placed in the hands of any proper officer to be by him executed,
22 and he shall unreasonably neglect or refuse so to do, an action
23 may be commenced against him by any voter in the county, for

24 such neglect, and prosecuted to final judgment, which shall be
25 for the full amount of the debt, costs, and interest on such exe-
26 cution; and if it be a process that requires him to take and
27 commit an offender to prison, the damages shall not be less than
28 fifty dollars or more than five hundred dollars. Such suit
29 shall be an action on the case, in the name of the town in which
30 the original offense was committed. 1855, c. 166, § 16.

SECT. 17. No writ of error, or other process, shall lie to make
2 void the doings of any such magistrate, by reason of any defect
3 or want of sufficiency in any complaint, warrant or other process
4 under this chapter, which might before final judgment have
5 been amended on motion. In addition to the fees allowed by
6 law, there shall be paid to such magistrate for taking bond, fifty
7 cents; for making the order for the destruction of liquors and
8 vessels, fifty cents; to the officer for seizing the liquors and
9 vessels, one dollar; for removing and keeping the same, fifty
10 cents and reasonable expenses; for executing and making return
11 of an order to destroy the liquors and vessels, one dollar; all
12 of which fees shall be taxed in the costs to be paid by the
13 defendant. 1855, c. 166, § 17.

Disposal of intoxicated persons.

SECT. 18. Any intoxicated person found in the streets, or
2 found in any other place disturbing the peace of the public,
3 that of his own or of any other family, so as to require the
4 interference of police or peace officers, may be committed by
5 any such officer to the watch-house, or other suitable place, till
6 a warrant can be procured upon which he may be tried, and, if
7 found guilty of the offense aforesaid, punished by thirty days
8 imprisonment. But the magistrate who tried the case may remit
9 any portion of said term, and order the prisoner discharged,
10 whenever he shall furnish such evidence as will authorize the
11 issue of a warrant, for some offense under this chapter, against
12 the person of whom he received the liquors that produced his
13 intoxication. 1855, c. 166, § 18.

Jurisdiction of courts, and appeals.

SECT. 19. Any penalties and forfeitures, the recovery of
2 which is not otherwise provided herein, may be recovered by

3 complaint before a municipal or police court, or justice of the
 4 peace, where the sentence does not exceed a fine of twenty
 5 dollars and costs and imprisonment in the county jail or house
 6 of correction ninety days; but in all other cases by indictment
 7 in any court proper to try the same. All bonds and recogni-
 8 zances given by appellants or other persons, shall be to the
 9 State of Maine, except as otherwise provided herein. In all
 10 cases of appeal from the judgment of a municipal or police court
 11 or justice of the peace, the appellant, if convicted, shall be
 12 sentenced to the same fines, penalties and imprisonment which
 13 might be awarded against him by such magistrate, with addi-
 14 tional costs. The appellate court shall have power to make any
 15 adjudication or order, or to pass any sentence which the court
 16 appealed from might have made or passed.

1855, c. 166, § 19.

SECT. 20. If any person shall claim an appeal from the
 2 sentence of such judge or justice, except as is otherwise provided
 3 herein, he shall grant his appeal and order him to recognize in
 4 the sum of one hundred dollars, with sufficient sureties for his
 5 appearance and for prosecuting his appeal; and he shall stand
 6 committed till the order is complied with. No recognizances
 7 shall be taken in cases arising under this act, except by the
 8 judge or justice before whom the trial was had.

1855, c. 166, § 20.

Jurors.

SECT. 21. No person engaged in the unlawful traffic in
 2 intoxicating liquors, shall be competent to sit upon any jury in
 3 any case arising under this chapter; and when a suggestion
 4 shall be made to the court that any juror is believed to be so
 5 engaged, the court shall inquire of the juryman of whom such
 6 belief is entertained; and if he admits the fact, or declines to
 7 answer, as he may do, he shall be discharged from all further
 8 attendance as juror. No answer which he shall make shall be
 9 used as evidence against him in any other case whatever; but if
 10 he shall answer falsely, he shall be incapable of serving on any
 11 jury in this state.

1855, c. 166, § 21.

Proceedings in Court.

SECT. 22. All cases arising under this chapter, by indictment
 2 or complaint, which shall come before a superior court, either
 3 by appeal or original entry, shall take precedence in said court
 4 of all other business, except those criminal cases in which the
 5 parties are actually under arrest, awaiting a trial; and the court
 6 and prosecuting officer shall not have authority to enter a nolle
 7 prosequi, or to grant a continuance in any case, either before or
 8 after verdict, except where the purposes of justice shall require
 9 it. 1855, c. 166, § 22.

SECT. 23. Whenever a defendant has given a recognizance
 2 for his appearance at court under this chapter, he shall be
 3 called thereon, on the first or second day after the jury is
 4 empanelled for the trial of criminal matters, and if he do not
 5 appear before the adjournment of the court on the second day,
 6 a default shall be entered, which shall not be taken off unless
 7 he come into court before the jury is dismissed, and move to
 8 have it taken off, which may be done on such terms as to the
 9 court shall seem proper. And in all cases of default upon any
 10 recognizance arising under this chapter, judgment shall be en-
 11 tered against the principal and sureties, and an execution or
 12 warrant of distress, in due form of law, shall be issued thereon,
 13 without scire facias, and for the full amount of the recognizance.

Whenever a verdict is rendered against any defendant tried
 15 under any of the provisions hereof, and he shall offer a bill of
 16 exceptions, if the judge before whom the trial is had, shall be of
 17 opinion that they are frivolous and intended for delay, he shall
 18 so certify, and shall proceed to pass sentence upon said defendant.
 1855, c. 166, § 24, 25.

Who may be Sureties—Lien on their Real Estate.

SECT. 24. No person shall become surety in any recogni-
 2 zance required by this chapter, until he has made oath that he
 3 is worth above and beyond all debts and liabilities, including
 4 all former recognizances, upon which he still remains liable, a
 5 sum equal to twice the sum named in the recognizance, and he
 6 shall, if required by the court, furnish a schedule of unincum-
 7 bered property, sufficient to answer for the amount for which he

8 is so to become surety, which, with the oath by him subscribed,
 9 shall be appended to the recognizance. Such recognizance shall
 10 be a lien upon all the real estate of the cognizors in the state, in
 11 preference to all other claims or sales of a subsequent date.
 12 The magistrate or the clerk of the court, who takes such recog-
 13 nizance, shall forthwith personally deliver or send by mail to the
 14 register of deeds in each county in which real estate of such cog-
 15 nizors is situated, a certificate in substance as follows :

16 "State of Maine: County of ———, ss. On this ——— day
 17 of ———, A. D. ———,

18 "A. B., as principal, and C. D. and E. F., as sureties, have this
 19 day entered into recognizance to the State of Maine, in the sum
 20 of ———, in the case, State of Maine, vs. A. B.

"Signed, G. H., justice of the peace or clerk."

And the register shall record the same in a book to be kept for
 23 that purpose. The fees of the clerk or justice shall be ten cents
 24 and the amount paid by him for postage; and of the register for
 25 recording, ten cents, to be paid out of the county treasury, and
 26 taxed in the costs to the parties. 1855, c. 166, § 26.

False Swearing, Neglect of Duty by Officers, and Technical Errors.

SECT. 25. False swearing in any oath or affidavit herein re-
 2 quired, shall be deemed to be perjury, and punished accordingly.

Every public officer, municipal, civil, or executive, who shall
 4 wilfully refuse or neglect to do any duty herein required of him,
 5 shall forfeit and pay for each offense, not less than twenty, or
 6 more than one hundred dollars, to be recovered in an action of
 7 debt, by any person who shall sue for the same, one-half to the
 8 state, the other to the plaintiff in the suit.

No proceedings or judgment under any of the provisions of this
 10 chapter, shall be set aside or be void by reason of any technical
 11 error or defect not affecting the merits, but the same may be
 12 amended on motion, any time, when, by such amendment sub-
 13 stantial justice will be promoted.

All fines, penalties and costs, and all sums paid on recogni-
 15 zances shall be paid into the county treasuries of the respective
 16 counties, for the use of the state. 1855, c. 166, § 27.

Common sellers.

SECT. 26. The penalty for being a common seller of intoxicating liquors, shall be a fine of two hundred dollars and costs, and six months' imprisonment for the first conviction; for the second and every subsequent conviction, a fine of four hundred dollars and costs, and nine months' imprisonment. Four distinct sales shall be sufficient to constitute the offense of being a common seller. Evidence which shows that the accused is a dealer in intoxicating liquors as a business or means of livelihood, may be introduced, and he may be convicted on such evidence, without proving four distinct sales. Evidence of the condition and appearance of his place of business, or of the premises searched, of the liquors found, of the utensils and conveniencies for drinking on the premises, of the conduct of the accused at the time of the search, also evidence that he has suffered reveling, riotous or disorderly conduct or drunkenness, by any person in and about his premises, and any other evidence tending to show the character of the place searched, may be presented to the jury upon the trial, as evidence that the accused is a common seller.

1855, c. 166, § 28.

Fees and other provisions.

SECT. 27. In all cases of appeal from the judgment of a judge or justice, they shall be conducted in the appellate court by the prosecuting officer of the government, and he shall be entitled to receive all costs taxable to the state, in every case where a conviction shall be had; but no costs in such cases shall be remitted or reduced by the prosecuting officer or the court. In any process for a violation of any of the provisions hereof, it shall not be requisite to set forth particularly the record of a former conviction, but it shall be sufficient to allege, briefly, that such person has been convicted of a violation of any particular provision, or as a common seller, as the case may be; and any process, legally amendable, may, in any stage of the proceedings, be amended in any matter of form, without costs, on motion, at any time before final judgment.

1855, c. 166, § 29.

SECT. 28. Nothing herein shall be construed to prevent any
2 chemist, artist or manufacturer, in whose art or trade they may
3 be necessary, from keeping at his place of business such reason-
4 able and proper quantity of such liquors as he may have occasion
5 to use in his art or trade, but not for sale; or to prohibit the
6 manufacture of cider, and sale thereof by the manufacturer; or
7 the manufacture of wine from currants or grapes for the domes-
8 tic use of the manufacturer, or to be sold for city or town
9 agents, by them to be sold for medicinal or sacramental pur-
10 poses. 1855, c. 166, § 30.

SECT. 29. All purchases of liquors, to be sold by such agents,
2 shall be made by the municipal officers of the town.

The county commissioners shall examine and correct all bills
4 of costs under this chapter, and order the same to be paid, the
5 same as in other criminal cases.

Imprisonment under this chapter shall be in the county jail or
7 house of correction, except where it is otherwise provided.

The fees to be charged for the libel, fifty cents; for entry of the
9 same, thirty cents; for monition, fifty cents; for posting notices
10 and return, one dollar; order to destroy or restore, twenty-five
11 cents; to the officer for executing the order and making return,
12 fifty cents; to the witnesses, twenty-five cents each. Wherever
13 in this chapter, fine and imprisonment are the punishment pro-
14 vided for the offense charged, it shall be the duty of the justice
15 or court to sentence the convict to both fine and imprisonment,
16 instead of one or the other, as is provided by the general law.

1855, c. 166, § 31.

Forms.

SECT. 30. The forms set forth in this section, with such
2 changes as will adapt them for use in cities and plantations, shall
3 be deemed sufficient in law for all the cases arising under this
4 chapter, to which they purport to be adapted. The magistrate
5 may, if he chooses, make the warrant returnable before himself,
6 or, in his absence or inability, before any other competent magis-
7 trate. The warrant to be issued in cases arising under section
8 eleven, shall be substantially in the form prescribed herein for
9 such warrant; but it shall in all cases contain a direction that
10 the search shall be made in the day time.

[Form of Indictment in case of Common Seller or Manufacturer.]

STATE OF MAINE.

2 ———, ss. At the supreme judicial court, begun and holden
 3 at ———, within and for the county of ———, on the ———
 4 Tuesday of ———, in the year of our Lord one thousand eight
 5 hundred and fifty ———

The jurors for said state, upon their oath present, that A. B.
 7 of ———, in said county, yeoman, at ———, in said county of
 8 ———, on the ——— day of ——— in the year of our Lord one
 9 thousand eight hundred and ———, and on divers other days and
 10 times between said ——— day of ——— aforesaid, and the day of
 11 the finding of this indictment, without any lawful authority,
 12 license or permission, was a common seller of intoxicating
 13 liquors, against the peace of said state, and contrary to the form
 14 of the statute in such case made and provided. [In case of a
 15 former conviction add,] and the jurors aforesaid, upon their
 16 oaths aforesaid, do further present, that the said ——— has been
 17 ——— before convicted as a common seller under the laws of this
 18 state, in said county of ———.

A true bill:

—————, *County Attorney.* ——— ———, *Foreman.*

[Form of Complaint and Warrant in case of Seizure.]

STATE OF MAINE.

2 ———, ss. To A. B., Esquire, one of the justices of the peace
 3 within and for the county of ———.

A. B., C. D., and E. F., of ———, residents in said county,
 5 and competent to be witnesses in civil suits, on the ——— day of
 6 ———, in the year eighteen hundred and fifty ———, in behalf of
 7 said state, on oath complain, that they have reason to believe,
 8 and do believe, that on the ——— day of ———, in said year, at
 9 said ———, intoxicating liquors were, and still are, kept and
 10 deposited by ———, of ———, in said county, in ———, [Here
 11 describe with precision the place to be searched,] said ——— not
 12 being authorized by law to sell said liquors within said ———;
 13 and that said liquors are intended for sale within said state, in
 14 violation of law; whereby said liquors and the vessels in which
 15 the same are contained, have become forfeited, to be destroyed;

16 and said — by reason of the premises has incurred and be-
 17 come liable to pay a fine of twenty dollars to said state, and
 18 costs of prosecution, and to be imprisoned —; and also to be
 19 imprisoned thirty days additional in default of payment of said
 20 fine and costs.

They therefore pray that due process be issued to search said
 22 — and any yard or building, other than a dwelling house,
 23 adjoining the premises herein before mentioned, if occupied by
 24 the same person herein described, where said liquors are believed
 25 to be deposited, and if there found, that the said liquors and
 26 vessels be seized and safely kept until final action and decision
 27 be had thereon, and that said — be forthwith apprehended
 28 and held to answer to said complaint, and to do and receive such
 29 sentence as may be awarded against him, and that said liquors
 30 and vessels be declared forfeited, and ordered to be destroyed.

A. B.

C. D.

E. F.

—, ss. On the — day of — aforesaid, the said A. B.,
 35 C. D., and E. F., made oath that the above complaint, by them
 36 signed, is true.

Before me,

Justice of the Peace.

STATE OF MAINE.

2 —, ss. To the sheriff of our said county of —, or either
 3 of his deputies, or the constables of the town of —, or either
 4 of the towns within said county.

Whereas, A. B., C. D., and E. F., of —, resident in said
 6 county, and competent to be witnesses in civil suits; on the
 7 — day of — in the year eighteen hundred and fifty —
 8 in behalf of said state, on oath complained to the subscriber, one
 9 of the justices of the peace within and for said county, that
 10 they have reason to believe, and do believe, that on the —
 11 day of — in said year, at said —, intoxicating liquors
 12 were and still are deposited and kept by — of —, in said
 13 county, in —, [Here follows a precise description of the place
 14 to be searched,] said — not being authorized by law to sell
 15 said liquors within said —, and that said liquors are intended

16 for sale within said state, in violation of law; whereby said
 17 liquors with the vessels in which the same are contained,
 18 became forfeited, to be destroyed, and said — by reason of
 19 the premises, incurred and became liable to pay a fine of twenty
 20 dollars to said state and costs of prosecution, and to be imprisoned
 21 — days, and also to be imprisoned thirty days in default of
 22 the payment of said fine and costs, and prayed that due process
 23 be issued to search said — and any yard or building, other
 24 than a dwelling house, adjoining the premises herein before
 25 mentioned, if occupied by the same person herein described,
 26 where said liquors are believed to be deposited, and if there
 27 found, that the said liquors and vessels be seized and safely kept
 28 until final action and decision be had thereon, and that said
 29 — be apprehended and held to answer to said complaint, and
 30 to do and receive such sentence as may be awarded against him,
 31 and that said liquors and vessels be declared forfeited and
 32 ordered to be destroyed.

You are therefore required in the name of the state, to enter
 34 the — before named, and therein search for said liquors,
 35 and if there found to seize and safely keep the same with the
 36 vessels in which they are contained, until final action and
 37 decision be had on said complaint; and to apprehend the said
 38 — forthwith, if he may be found in your precinct, and bring
 39 him before me, the subscriber, or some other justice within and
 40 for said county, to answer to said complaint; and to do and
 41 receive such sentence as may be awarded against him.

Witness, — Esquire, at — aforesaid, this — day of
 43 — in the year eighteen hundred and fifty —.

Justice of the Peace.

[Form of Complaint for Single Sale.]

STATE OF MAINE.

2 — ss. To —, Esquire, one of the justices of the peace
 3 within and for the county of —:

A. B., of —, in said county, yeoman, on the — day of
 5 —, in the year of our Lord one thousand eight hundred and
 6 fifty —, in behalf of said state, on oath complains that —,

7 of —, in said county, —, on the — day of —,
 8 aforesaid, at said —, not being appointed by the municipal
 9 officers of said town as the agent thereof for the sale of intox-
 10 icating liquors, did sell a quantity of intoxicating liquors
 11 therein, to wit: one — of intoxicating liquor to one —, [or
 12 if the individual be unknown, to some person to said complain-
 13 ant unknown,] against the peace of said state, and contrary to
 14 the form of the statute in such cases made and provided.

A. B.

On the — day of — aforesaid, the said — makes oath,
 17 that the above complaint, by — subscribed, is true.

Before me,

Justice of the Peace.

[Form of Warrant upon the same.]

STATE OF MAINE.

2 —, ss. To the sheriff of our said county of —, or either of
 3 his deputies, or either of the constables of the town of —,
 4 or either of the towns within said county,

GREETING:

Whereas, A. B., of —, on the — day of — A. D.
 7 185—, in behalf of said state, on oath complained to me, the
 8 subscriber, one of the justices of the peace within and for the
 9 county of —, that — of —, in said county, —, on the
 10 — day of — at said —, not being appointed by the mu-
 11 nicipal officers of said town, as the agent thereof for the sale of
 12 intoxicating liquors, did sell a quantity of intoxicating liquors,
 13 to wit, one — of intoxicating liquor to one —, against the
 14 peace of said state and contrary to the form of the statute in
 15 such case made and provided.

Therefore, in the name of the state of Maine, you are com-
 17 manded forthwith to apprehend the said —, if he may be
 18 found in your precinct, and bring — before me, the subscri-
 19 ber, or some other justice of the peace within and for said county,
 20 to answer to said state upon the complaint aforesaid.

Witness my hand and seal at — aforesaid, this — day of
 22 —, A. D. 185—.

Justice of the Peace.

[Form of a Recognizance in case of a Single Sale.]

Be it remembered, that at a justice court held by me, one of
 2 the justices of the peace, within and for the county of —, at
 3 my office in —, in said county, on the — day of —, in
 4 the year of our Lord one thousand eight hundred and fifty—,
 5 personally appeared — and —, and severally acknowledged
 6 themselves to be indebted to the State of Maine in the respective
 7 sums following, to wit:

The said — as principal, in the sum of — dollars, and
 9 the said — and — as sureties, in the sum of — dollars
 10 each, to be levied on their respective goods, chattels, lands or
 11 tenements, and in want thereof, on their bodies, to the use of
 12 the state, if default be made in the condition following:

The condition of this recognizance is such, that whereas the
 14 said — has been brought before said court, by virtue of a
 15 warrant duly issued upon the complaint on oath of —, charg-
 16 ing the said —, with having sold at said —, one —
 17 of intoxicating liquors to one —, the said — not being ap-
 18 pointed by the municipal officers of said town, as the agent
 19 thereof for the sale of intoxicating liquors, against the peace of
 20 said state, and contrary to the form of the statute in such case
 21 made and provided. And said — having pleaded not guilty
 22 to said complaint, but having been by said court found guilty of
 23 the same, and been sentenced to —; and the said — hav-
 24 ing appealed from said sentence to the supreme judicial court,
 25 next to be holden at —, within and for said county of —,
 26 on the — Tuesday of —:

Now, therefore, if the said — shall appear at the court
 28 aforesaid, and prosecute his said appeal, and abide the order and
 29 judgment of said court, and not depart without license, then this
 30 recognizance shall be void; otherwise remain in full force and
 31 virtue.

Witness,

Justice of the Peace.

[Form of Recognizance in case of Seizure.]

Be it remembered, that at a justice court held by me, one of
 2 the justices of the peace within and for the county of —, at

3 my house in said —, on the — day of —, in the year of
 4 our Lord one thousand eight hundred and fifty —, personally
 5 appeared A. B., C. D., and E. F., and severally acknowledged
 6 themselves to be indebted to the State of Maine, in the respective
 7 sums following, to wit :

The said — as principal, in the sum of — dollars, and
 9 the said — and — as sureties, in the sum of — dollars
 10 each, to be levied on their respective goods, chattels, lands or
 11 tenements, and in want thereof, on their bodies, to the use of the
 12 state, if default be made in the condition following :

The condition of this recognizance is such, that whereas the
 14 said — has been brought before said court, by virtue of a
 15 warrant duly issued upon the complaint, on oath, of G. H., I.
 16 J., and K. L., of said —, all competent witnesses in civil
 17 suits, and resident within said county, charging the said —,
 18 with having at —, on the — day of —, kept and
 19 deposited certain intoxicating liquors in [here describe the place
 20 where the same are deposited] with the intent to sell the same
 21 in this state, in violation of law ; said —, not being appointed
 22 to sell the same in said —, and a search warrant having been
 23 duly issued upon said complaint, and said liquors above
 24 described, having been seized thereon ; and the said — duly
 25 arrested thereon ; and having pleaded not guilty to said com-
 26 plaint, but having been by said court found guilty of the same,
 27 and been sentenced to —. And the said — having
 28 appealed from said sentence to the supreme judicial court, next
 29 to be holden at —, within and for said county of —, on the
 30 — Tuesday of — :

Now, therefore, if the said — shall appear at the court
 32 aforesaid, and prosecute his said appeal with effect, and abide
 33 the order and judgment of said court, and not depart without
 34 license, then this recognizance shall be void ; otherwise remain
 35 in full force and virtue.

Witness,

Justice of the Peace.

[Form of Mittimus.]

STATE OF MAINE.

2 County of —, ss. To the Sheriff of the county of —, or
 3 his deputies, or the constables of the town [or city] of —
 4 and to the keeper of the jail in —, in our said county,

GREETING.

Whereas, E. F., of — in our county of —, now stands
 7 convicted before me, A. B., one of the justices of the peace, in
 8 and for the county of —, on the complaint of —, who, on
 9 his [or their] oath complains that — [here insert the sub-
 10 stance of the complaint] — against the peace of the state and
 11 contrary to the form of the statute in such case made and
 12 provided, for which offense he the said E. F., is sentenced to
 13 pay a fine to the use of the state of twenty dollars and costs of
 14 prosecution, taxed at —, [and to stand committed until the
 15 sentence be performed; all which sentence the said E. F., now
 16 before me, fails and refuses to perform.]

These are, therefore, in the name of the State of Maine, to
 18 command you, and each of you, forthwith to convey the said E.
 19 F. to the common jail in — in the county aforesaid, and to
 20 deliver him to the keeper thereof, together with this precept.
 21 And you, the keeper of the said jail in — aforesaid, are
 22 hereby in like manner commanded, in the name of the State of
 23 Maine, to receive the said E. F. into your custody, in said jail,
 24 and him there safely to keep until he shall comply with said
 25 sentence, or be otherwise discharged by due course of law.

Given under my hand and seal this — day of — A. D. —

Justice of the Peace.

When the sentence shall be, in addition to the fine, thirty,
 29 sixty or ninety days imprisonment, the substance of the com-
 30 plaint being duly set forth, insert in the mittimus instead of the
 31 words included in the foregoing form in brackets, as follows:
 32 [and — days imprisonment in the common jail; all which
 33 sentence, the said E. F. now before me, fails and refuses to
 34 perform.] If the fine and costs are paid, insert, [which sentence
 35 to — days imprisonment, the said E. F., now before me, fails
 36 and refuses to perform,] and in like manner in all cases the

37 substance of the complaint being set forth, and the recital of the
38 sentence conformable to the fact, the same form in substance may
39 be used, and shall be sufficient in law. 1855, c. 166, § 32.

Civil Remedies.

SECT. 31. All payments or compensations for liquor sold in
2 violation of law, whether in labor, money, or other real or per-
3 sonal property, shall be considered to have been received without
4 consideration, and against law and equity; and may be recovered
5 back by the purchaser of such liquor, his legal representatives,
6 or creditors, by a special action on the case, or any other appro-
7 priate remedy. 1846, c. 205, § 11. 1855, c. 166, § 23.

SECT. 32. Different kinds of payments may be joined in one
2 general count; and it shall be no objection to the suit that the
3 payment was received for the joint use of the defendant and any
4 other person, or that the defendant was under the age of twenty-
5 one years, a married woman, clerk, servant, agent or attorney;
6 and full costs shall be allowed in any court, though the amount
7 of damages recovered be less than twenty dollars.

1846, c. 205, § 12, 13.

SECT. 33. The defendant shall not be allowed, in any such
2 action, any claims or demands he may have against the plaintiff
3 or person to whom the liquor was furnished, either in set off,
4 payment or otherwise; nor shall the action of any creditor be
5 defeated by any assignment of the claim, or discharge, release,
6 receipt, settlement or admission made by the purchaser, if it
7 appear that it has not been actually paid, in good faith, to its
8 full value and amount by the seller; and the giving a note or
9 other obligation shall not be deemed a payment.

1846, c. 205, § 14, 15.

SECT. 34. In any such action commenced by a creditor, the
2 purchaser may be a witness for the plaintiff, and such action
3 and cause of action shall survive; and in all actions, whether in
4 the name of the creditor or otherwise, the plaintiff may tender
5 his oath, in writing, which shall be received as evidence, and
6 the defendant may, in writing, make a counter oath.

1846, c. 205, § 11, 16.

SECT. 35. When a plaintiff shall wish to avail himself of the defendant's knowledge, relating to the subject matter of the suit, he may, in his declaration, ask for a disclosure of the same, upon the oath of the defendant, in writing, and the disclosure, if made, may be submitted to the court or jury, with the other evidence in the case; but if the defendant neglects or refuses to make such disclosure, or if, when made, it does not absolutely, and without qualification, deny that he did sell the liquor and receive the money or other property therefor, as alleged in the declaration, and he prevails in the action, he shall recover no costs; but no such disclosure shall ever be used against him in any other civil or criminal process. 1846, c. 205, § 7, 18.

SECT. 36. Money or property recovered by a guardian, executor or administrator, under these provisions, may be applied by him in whole or in part to pay the debts of the purchaser, or to relieve his family, as he may deem suitable; and recovered by a creditor, shall be applied to the payment of his debt against the purchaser, and if any balance remains, it shall be paid to the purchaser, or his legal representatives, and, in the latter case, to be disposed of as aforesaid. 1846, c. 205, § 19.

SECT. 37. Whenever a judgment shall be recovered in any such action against the defendant, the execution to be issued thereon shall run against his body, whether the amount recovered, exclusive of costs, be more or less than ten dollars; and the justice or clerk issuing said execution, shall note on its margin, that it was issued on a judgment obtained on account of intoxicating liquors sold in violation of law; and if a debtor shall be arrested on such execution, he shall not be permitted to give any bond for the liberation of his person, but shall be committed to prison, but only on one such execution at the same time. And if he shall apply to take the poor debtor's oath, no notice shall be issued to the creditor until fifteen days after the commitment. 1846, c. 205, § 20, 21.

SECT. 38. All sales, conveyances, mortgages, liens, attachments, and pledges of property; and all notes, accounts, bonds or other securities of every kind, which, in whole or in part, originated on account of intoxicating liquors, except such liquors

5 as may be sold according to the first section hereof, shall be
 6 utterly null and void as to all persons and in all cases, ex-
 7 cept in case of subsequent purchasers of real estate, and bona
 8 fide holders of negotiable paper for a valuable consideration
 9 without notice, and no rights of any kind shall be acquired
 10 thereby; and in any action either at law or equity, touching
 11 such real or personal estate, the purchaser of such liquors may
 12 be a witness for either party. 1855, c. 166, § 23.

SECT. 39. No action of any kind shall be maintained, in any
 2 court in this state, either in whole or in part, for intoxicating
 3 liquors sold in any other state or country whatever, except
 4 against towns that have purchased the same under this chapter;
 5 nor shall any action whatever be maintained in any court in this
 6 state for the recovery, possession, injury or value of intoxicating
 7 liquors sold, or intended for sale, in violation of law.

1855, c. 166, § 23.

Chapter 30.

PUBLIC EXHIBITIONS, BOWLING ALLEYS, AND BILLIARD ROOMS.

PUBLIC EXHIBITIONS.

- Sect.* 1. Penalty for exhibiting pageantry, slight of hand tricks, circuses, shows, or theatrical performances, without a license. Permanent museums not included.
2. Licenses how granted; fee therefor; time allowed for performance; penalties how recovered and appropriated.

BOWLING ALLEYS.

3. Penalty for keeping bowling alley without a license, and how recovered and appropriated.
4. Licenses how granted and fees therefor.
5. Persons licensed to give bond, and conditions thereof.
6. If conditions of bond violated, license to be revoked and payment of bond enforced, and person not to be licensed again.

BILLIARD ROOMS.

7. Penalty for admitting minors to play billiards, or allowing persons to play after six o'clock Saturday, or ten other evenings.
8. Penalty for obstructing officers from entering billiard rooms to enforce the laws. Penalties how recovered and appropriated.

Public Exhibitions.

SECT. 1. If any person, for money or other valuable article, shall exhibit in this state, any images or pageantry, slight of hand tricks, puppet show or circus, or any feats of balancing, wire dancing, personal agility, dexterity, or theatrical performances, without a license therefor, as hereinafter provided, he shall forfeit, for every such offense, a sum not exceeding one hundred, nor less than ten dollars; but this prohibition shall not extend to any permanently established museum.

R. S., c. 39, § 1, 3. 1847, c. 16.

SECT. 2. The municipal officers of towns may grant licenses for any of the foregoing exhibitions or performances therein, on receiving, for the use of their town, such sum, not less than five dollars, as they may deem proper; twenty-four hours being allowed for the same; and it shall be their duty to prosecute, by an action of debt, in the name and for the use of their town, all persons violating the provisions of section one.

R. S., c. 39, § 2, 4, 5. 1849, c. 138.

Bowling Alleys.

SECT. 3. No person shall keep a bowling alley without a license, under a penalty of ten dollars for each day, to be recovered in an action of debt, by any person suing therefor, one-half to his own use, and the other to the use of the town where the offense is committed.

1855, c. 167, § 1, 5.

SECT. 4. The municipal officers of towns may license suitable persons to keep bowling alleys therein, in any place where it will not disturb the peace and quiet of any family, for which the person licensed shall pay ten dollars to the use of such town.

1855, c. 167, § 2, 6.

SECT. 5. Every person so licensed shall, at the time he receives his license, give a bond to such town, with two good and sufficient sureties, in a sum not less than one hundred dollars, conditioned that he will not permit any gaming, or drinking of intoxicating liquors in or about his premises; or any minor to play or roll in his alley without the written consent of his parent, guardian or master, or his alley to be opened or

8 used from sunset on Saturday, and from nine o'clock on other
9 evenings, till ten in the morning. 1855, c. 167, § 3.

SECT. 6. If any person, so licensed, shall violate any of the
2 conditions of his bond, the municipal officers, on being furnished
3 with proof thereof, shall revoke the license, and enforce the
4 payment of the bond for the use of their town; and no person,
5 whose license shall be so revoked, shall afterwards be licensed
6 in said town for such purpose. 1855, c. 167, § 4.

Billiard Rooms.

SECT. 7. The keeper of any billiard room or table, who shall
2 admit minors to the same, without the written consent of their
3 parent or guardian, or suffer any persons to play at the same
4 after six o'clock in the afternoon of Saturday, or ten in the
5 afternoon of other days, shall forfeit ten dollars for the first, and
6 twenty for each subsequent offense. 1855, c. 141, § 1.

SECT. 8. Any marshal, sheriff or other officer may at any
2 time enter into said billiard room, or rooms connected there-
3 with, for the purpose of enforcing this or any other law; and
4 any person who shall obstruct the entrance of such officer, shall
5 forfeit not less than five, or more than twenty dollars: the
6 penalties, provided in this and the preceding section, may be
7 recovered by complaint, indictment or action of debt, to the use
8 of the person prosecuting therefor. 1855, c. 141, § 2.

Chapter 31.

MISCHIEVOUS DOGS, WOLVES AND BEARS, MOOSE AND DEER.

MISCHIEVOUS DOGS.

- Sect. 1.* Owners of dogs liable for double damages done by them.
2. Dogs may be killed that assault any person, or kill domestic animals.
 3. Penalty for not confining or killing dangerous dogs, after complaint and notice, and how appropriated. Dog again at large may be killed.
 4. Owner of dog, assaulting a person, or killing animals after notice, liable to treble damages.

WOLVES AND BEARS.

- Sect. 5. Bounty on wolves and bears to be paid from the town treasury.
6. Bounty not to be paid till skins exhibited and sworn certificate delivered to treasurer. Treasurer to burn nose and ears, pay bounty, take a receipt, and make a sworn certificate to treasurer of state of the facts.
7. Certificates and receipts to be sent to treasurer of state, laid before legislature, allowed and paid to towns.
8. Forms of certificates, receipts and oaths.

MOOSE AND DEER.

9. Penalty for inhabitants of the state killing moose and deer within specified times, and for persons not inhabitants at any time. Dogs hunting moose or deer, within the times, or with persons prohibited, may be killed.
10. Appointment of county moose wardens; tenure of their office; power to appoint deputies, and require bonds. Duty of wardens and deputies to enforce the law, and make annual returns. Penalties for not making returns, and how proved, recovered and appropriated.
11. Wardens may be chosen by towns, have concurrent jurisdiction, and make annual returns. Wardens and deputies to have same authority to require aid as sheriffs.
12. Penalties how recovered and appropriated. Wardens may be witnesses. Other persons may prosecute for penalties, if wardens do not within fourteen days.
13. Indians of Penobscot and Passamaquoddy tribes not subject to these penalties for hunting on their own account.
14. Possession of carcass or hide of such animal, proof of unlawful killing, but may be explained in defense.

Mischievous Dogs.

SECT. 1. When any dog shall do any damage to a person or
 2 his property, the owner or keeper of such dog, and also the
 3 parent, guardian, master or mistress of any minor or servant,
 4 who shall own or keep such dog, shall forfeit and pay to the
 5 injured person, double the amount of the damage done; to be
 6 recovered by action of trespass. R. S., c. 40, § 1.

SECT. 2. Any person may lawfully kill any dog, that shall
 2 suddenly assault him or any other person, when peaceably walk-
 3 ing or riding, or be found worrying, wounding or killing any
 4 domestic animals, out of the enclosure or immediate care of the
 5 owner. R. S., c. 40, § 2.

SECT. 3. Whoever shall be assaulted, or shall find a dog
 2 strolling out of the enclosure, or immediate care of his master,
 3 may, within forty-eight hours thereafter, make oath before a
 4 justice of the peace, that he really suspects such dog to be dan-
 5 gerous or mischievous, and notify such master by giving him a

6 copy of said oath, signed by the justice, and if the master shall
 7 neglect, for twenty-four hours thereafter, to confine or kill such
 8 dog, he shall forfeit five dollars to any person suing therefor;
 9 and if such dog shall be again at large, and out of the care of
 10 the master, any person may lawfully kill him.

R. S., c. 40, § 3, 4.

SECT. 4. If any dog, after notice given as aforesaid, wound
 2 any person by a sudden assault as aforesaid, or wound or kill
 3 any domestic animals, the owner or keeper shall be liable to pay
 4 the person injured treble damages and costs.

R. S., c. 40, § 5.

Wolves and Bears.

SECT. 5. A bounty of eight dollars for every wolf, and two
 2 dollars for every bear, killed in any town in this state, shall be
 3 paid by the treasurer thereof, to the person killing the same, on
 4 his complying with the following provisions. 1853, c. 35, § 1.

SECT. 6. No such bounty shall be paid unless the person
 2 claiming the same, within ten days after he has killed such ani-
 3 mal, or within ten days after he has returned from the hunting
 4 in which he killed the same, shall exhibit to the town treasurer
 5 the entire skin thereof, with the ears and nose upon the same,
 6 in as perfect a state as when killed, excepting natural decay,
 7 and shall sign and make oath to a certificate, which oath such
 8 treasurer is hereby authorized to administer, in which he shall
 9 state that he killed said animal, and the time when and the place
 10 where he killed it, shewing it to be within this state; and the
 11 said treasurer shall thereupon cut off the whole of the ears and
 12 the whole of the nose from such skin, and entirely destroy the
 13 same by burning, then he shall pay the bounty and take the re-
 14 ceipt of the claimant therefor, upon the same paper with the
 15 certificate aforesaid. And said treasurer shall immediately
 16 make upon the same paper a certificate, under oath, addressed to
 17 the treasurer of state, that he first cut off the ears and nose from
 18 the skin of such animal, and destroyed the same by burning, and
 19 then paid the said bounty to the claimant. 1853, c. 35, § 2.

SECT. 7. Said certificates and receipts shall annually in the
 2 month of December, be transmitted to the treasurer of state, and

3 by him laid before the legislature, as early as convenient; and
 4 when allowed by the legislature, shall be paid by the treasurer
 5 of state to such towns. 1853, c. 35, § 2.

SECT. 8. The certificates and receipts shall be in the follow-
 2 ing form:

[Claimant's Certificate.]

To the treasurer of ——. I hereby certify that on the —
 2 day of —, A. D. 18—, at —, in the State of Maine, I
 3 killed the —, the skin of which I now exhibit to you; and
 4 I claim the bounty allowed by law for killing the same.

Dated at —, this — day of —, A. D. 18—.

Claimant.

Subscribed and sworn to before me, the day and year afore-
 8 said.

Treasurer of —.

[Claimant's Receipt.]

On this — day of —, A. D. 18—, I received of —,
 2 treasurer of —, — dollars, being the bounty allowed by
 3 law for killing the — as described in the above certificate.

Claimant.

[Treasurer's Certificate.]

I hereby certify that, as required by law, I first cut off the
 2 whole of the ears and nose from the skin of the — described
 3 in the foregoing certificate, and destroyed the same by burning,
 4 and then paid to the said — the bounty for which I have
 5 taken his receipt as above.

Dated at —, this — day of —, A. D. 18—.

Treasurer of —.

Subscribed and sworn to before me, the day and year afore-
 9 said.

Justice of the Peace.

Moose and Deer.

SECT. 9. No person shall hunt or kill on any land not his
 2 own, in this state, any moose from the fifteenth day of March

3 to the first day of October, or any deer from the fifteenth day
4 of January to the first day of September, under a penalty of
5 forty dollars for each moose and twenty dollars for each deer so
6 killed. No person not an inhabitant of this state, shall at any
7 time hunt or kill any moose or deer, excepting on his own land,
8 under the same penalties as above provided. It shall be lawful
9 for any person to shoot or otherwise kill any dog found hunting
10 moose or deer, within the time or with the persons herein pro-
11 hibited. 1853, c. 27, § 1. 1855, c. 136, § 1.

SECT. 10. The governor, with advice of council, shall appoint
2 one county moose warden for each of the counties of Oxford,
3 Franklin, Somerset, Penobscot, Piscataquis, Hancock, Wash-
4 ington and Aroostook, to hold his office for the term of four
5 years, unless sooner removed; each of whom may appoint, in
6 writing, one or more deputies under him, and require of them
7 suitable bonds for the faithful performance of their duties, and
8 the payment to him of his fees; and it shall be the duty of
9 said wardens and their deputies in their several counties, faith-
10 fully to enforce the provisions hereof. Each of the deputies
11 shall annually, on or before the first day of December, render
12 to his principal an account, under oath, of all the penalties by
13 him enforced for the preceding year, and shall pay to his
14 principal one-tenth part of the net proceeds thereof. Each
15 county moose warden shall annually, in January, render to the
16 secretary of state, to be by him laid before the legislature, an
17 account, on oath, of all the penalties enforced by himself, or
18 returned to him by his deputies for the year ending on the first
19 day of December. The penalty for neglecting so to do, shall
20 be for a warden fifty dollars, and a deputy twenty-five dollars;
21 and it shall be the duty of the warden immediately to give notice
22 to the county attorney of every such neglect of his deputy; and
23 it shall be the duty of the secretary of state to notify such
24 county attorney of every such neglect of the warden; and the
25 county attorney shall prosecute for every such neglect of which
26 he has notice; and the penalties so recovered shall be for the
27 use of the county. In such prosecutions, the certificate of the
28 secretary of state shall be sufficient evidence of the fact of such
29 neglect to make return to him. 1853, c. 27, § 2.

SECT. 11. The municipal officers of any town may insert, in
 2 the warrant for their annual meeting, an article for the choice
 3 of a town moose warden, who, in his town and anywhere within
 4 the distance of twelve miles from the exterior bounds thereof,
 5 shall have concurrent jurisdiction with, and the same powers
 6 and rights as the county moose warden and his deputies; and he
 7 shall make a like return to the secretary of state, under a
 8 penalty of twenty-five dollars, to be proved, recovered and ap-
 9 propriated in the same way. Each of said officers shall have
 10 the same authority to require aid in the execution of his office
 11 as sheriffs and their deputies have. 1853, c. 27, § 3.

SECT. 12. The county wardens, their deputies or town ward-
 2 ens may recover, in any court proper to try the same, the
 3 penalties for unlawfully hunting and killing moose and deer, in
 4 an action on the case, in their own names, or by complaint or
 5 indictment in the name of the state; and such officers may be
 6 competent witnesses, and the sums recovered shall be paid one
 7 half to the said warden or deputy warden, and the other to the
 8 county or town as the case may be. Any person may prosecute
 9 by complaint or indictment for any of the acts herein forbidden,
 10 provided no such warden or deputy shall, within fourteen days
 11 after the offense is committed, prosecute therefor.

1853, c. 27, § 4.

SECT. 13. No Indian of the Penobscot or Passamaquoddy
 2 tribe shall be liable to the penalties hereof, while hunting moose
 3 and deer, on his own account and for his own use, unaccompanied
 4 by any person herein forbidden. 1853, c. 27, § 5.

SECT. 14. If any person shall have in his possession the
 2 carcass, or hide of any such animal, within the times herein
 3 forbidden, he shall be deemed to have hunted and killed the
 4 same contrary to law, and be liable to the penalties aforesaid,
 5 after he has had reasonable opportunity given him by the ward-
 6 ens to show that said animal was lawfully killed, and has
 7 neglected to do so; but he shall not be precluded from produc-
 8 ing such proof in defense. 1853, c. 27, § 6.

