

MAINE STATE LEGISLATURE

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L A W S

OF THE

S T A T E O F M A I N E ;

TO WHICH ARE PREFIXED

THE

C O N S T I T U T I O N O F T H E U . S T A T E S

AND OF SAID STATE,

IN TWO VOLUMES,

W I T H A N A P P E N D I X .

.....
VOL. II.
.....

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BRUNSWICK.

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.....
1821.

ERRATA:

**The following leaf is
inserted because one or more pages
in this chapter have errors
noticed and corrected here.**

VOLUME THE SECOND.

<i>Page.</i>		<i>Page.</i>
463	Line 7 of page, dele the word <i>whole</i>	663 S. 2 L. 6 of S. dele <i>of</i>
464	Sec. 8 L. 12 of Sec. for <i>towns</i> read <i>town</i>	666 5 2 after the word <i>Governor</i> insert, and <i>Council</i>
484	27 6 at the end of the line insert the word <i>that</i>	666 5 last for <i>his</i> read <i>the</i>
492	43 11 after the word <i>owing</i> insert <i>to</i>	667 L. 3 of the page, dele <i>who</i>
496	47 25 for <i>duty</i> read <i>body</i>	668 S. 10 L. 1 of S. for <i>where</i> read <i>when</i>
500	54 3 at the end of the line dele <i>the</i>	669 L. 3 of p. for <i>effect</i> read <i>affect</i>
506	7 6 after the word or dele <i>to</i>	670 S. 5 L. 7 of S. for <i>the</i> read <i>such</i>
515 L.	28 of p. for <i>highway</i> read <i>highways</i>	671 L. 2 of p. for <i>in</i> read <i>on</i>
517 S. 16 L. 11 of S.	after the word <i>be</i> insert <i>the</i>	672 S. 9 L. 3 of S. for <i>make</i> read <i>mark</i>
518	18 9 for <i>of</i> read <i>or</i>	672 11 2 for <i>and</i> read <i>or</i>
520	23 11 before the word <i>proprietors</i> insert <i>the</i>	672 11 8 before the word <i>each</i> insert <i>for</i>
523 L. 6 of p.	after the word <i>person</i> insert <i>of</i>	674 2 7 before the word <i>drying</i> insert <i>the</i>
523	last for <i>cannot</i> read <i>can</i>	676 L. 5 of p. for <i>not</i> read <i>none</i>
526	9 for <i>laws</i> read <i>law</i>	677 4 for <i>quality</i> read <i>quantity</i>
533	16 for <i>assessments</i> read <i>assessment</i>	681 Sec. 4 last line of Sec. after the word <i>owner</i> insert <i>or owners</i>
534	13 for <i>appears</i> read <i>appear</i>	682 Sec. 5 L. 2 of Sec. dele <i>away</i>
535	4 at the end of the line insert <i>of</i>	684 2 3 for <i>galo</i> read <i>golo</i>
535	3 from bottom of p. for <i>causes</i> read <i>cause</i>	686 4 2 for <i>on</i> read <i>or</i>
537 S. 12 L. 2 of S.	for <i>in</i> read <i>of</i>	687 3 6 before the word <i>stamped</i> insert <i>not</i>
539 L. 11 of p.	between the words <i>the</i> and <i>day</i> should be a '—'	688 L. 24 of p. before the word <i>arms</i> at the beginning of the line insert <i>the</i>
539	15 for <i>where</i> read <i>wherein</i>	694 L. 15 of p. after the word <i>shall</i> insert <i>also</i>
543 S. 18 L. 13 of S.	dele <i>the</i> before the word <i>said</i>	694 16 after the word <i>of</i> insert <i>the</i>
545	21 7 for <i>and</i> read <i>or</i>	695 12 for <i>usage</i> read <i>usages</i>
546	1 6 for <i>this</i> read <i>thus</i>	716 8 for <i>fixed</i> read <i>affixed</i>
547	2 7 for <i>this</i> read <i>thus</i>	723 6 from bottom of p. dele <i>in</i>
547	2 11 for <i>in capacity</i> read <i>incapacity</i>	734 Sec. 51 L. 4 of Sec. before the word <i>auditing</i> insert <i>the</i>
553 L. 2 of p.	at the end of the line insert <i>such</i>	742 L. 4 of p. after the word <i>orders</i> insert <i>to be</i>
556 S. 1 L. 18 of p.	for <i>master</i> read <i>masters</i>	744 L. 3 from bottom of p. before the word <i>refuse</i> insert <i>shall</i>
557 L. 16 of p.	for <i>in</i> read <i>of</i>	745 Sec. 1 L. 6 of Sec. before the word <i>good</i> insert <i>six</i>
560 S. 7 L. 4 of S.	for <i>Court of Sessions</i> read <i>Courts of Sessions</i>	746 2 15 before the word <i>advice</i> dele <i>the</i>
566	1 7 for <i>every</i> read <i>any</i>	751 5 11 for <i>owners</i> read <i>owner</i>
570	9 5 after the word <i>them</i> insert <i>as</i>	751 5 15 for <i>taking</i> read <i>taken</i>
572	12 5 after the word <i>fine</i> insert <i>of</i>	751 5 25 for <i>owners</i> read <i>owner</i>
573	1 3 for <i>and</i> read <i>or</i>	753 8 23 for <i>spurs</i> read <i>spar</i>
576 L. 18 of p.	for <i>pounds</i> read <i>ounces</i>	754 10 3 after the word <i>or</i> insert <i>any</i>
576	last line of the page dele <i>and</i>	758 L. 2 of p. for <i>sales</i> read <i>sale</i>
591 S. 5 L. 2 of S.	before the word <i>action</i> insert <i>an</i>	759 24 for <i>minor</i> read <i>minors</i>
592	3 3 for <i>time</i> read <i>times</i>	761 19 for <i>another</i> read <i>any other</i>
601 L. 11 of p.	at the end of the line insert <i>drawn</i>	761 last dele <i>other</i>
	After p. 604 read p. '605' instead of '506'	762 22 before the word <i>fish</i> insert <i>any</i>
604 S. 12 L. 2 of S.	after the word <i>passing</i> insert <i>on</i>	766 6 after the word <i>notice</i> insert <i>is</i>
606	for Sec. 14 read Sec. 16	766 Sec. 5 L. 6 of Sec. for <i>damages</i> read <i>damage</i>
608 S. 22 L. 5 of S.	for <i>monies</i> read <i>money</i>	769 4 14 dele <i>to the</i>
610	3 18 dele <i>any</i>	772 first word of the p. for <i>damage</i> read <i>damages</i>
614	4 4 for <i>funnel</i> read <i>fund</i>	774 Sec. 2 L. 7 of Sec. for <i>and</i> read <i>or</i>
617 L. 5 of the page	dele <i>a</i>	774 2 14 for <i>any</i> read <i>every</i>
617 S. 1 L. 6 of S.	for <i>purpose</i> read <i>purposes</i>	775 1 3 for <i>paasing</i> read <i>passing</i>
621	1 9 for <i>such</i> read <i>said</i>	777 L. 17 of p. for <i>these</i> read <i>their</i>
622	3 16 for <i>or</i> read <i>on</i>	780 14 for <i>ninth</i> read <i>twenty ninth</i>
624	2 12 after the word <i>returns</i> insert <i>as</i>	780 35 for <i>sixteenth</i> read <i>seventeenth</i>
626	3 6 before the word <i>Cashier</i> insert <i>the</i>	788 25 for <i>eight</i> read <i>eighth</i>
631	4 3 before the end of the S. for <i>course</i> read <i>course</i>	790 28 after the word <i>Act</i> insert <i>providing</i>
634	16 5 of S. for <i>inspected</i> read <i>uninspected</i>	791 13 after the word <i>for</i> dele <i>the</i>
635	17 last for <i>and</i> read <i>or</i>	791 14 after the word <i>idle</i> dele <i>and</i>
638 L. 9 of p.	for <i>and</i> read <i>or</i>	793 5 for <i>galo</i> read <i>golo</i>
642	7 dele <i>who</i>	793 27 after the word <i>Act</i> dele <i>for</i>
643 S. 4 L. 6 of S.	dele <i>are</i> after <i>and</i>	797 4 at the end of the line for <i>eight</i> read <i>eighth</i>
650	4 14 before the word <i>also</i> insert <i>as</i>	808 34 for <i>from</i> read <i>upon</i>
656	12 3 for <i>on</i> read <i>or</i>	
658	in the title, after the word <i>Act</i> insert <i>for</i>	

district is situated, on application in writing of any five or more freeholders, inhabitants of such school district, to insert in their warrant for calling the next town or plantation meeting, an article requiring the opinion of the town or plantation, relative to such subject as proposed in the said district meeting; and if a majority of the voters present in such town or plantation meeting, shall think it necessary and expedient, they may grant a sum sufficient for any of the purposes aforesaid, to be assessed on the polls and estates in said school district, to be collected and paid as is in this Act provided.

SEC. 13. *Be it further enacted,* That when the inhabitants of any school district cannot agree where to erect or locate a school house in their district, the Selectmen of the town or Assessors of the plantation, to which such district belongs, upon application made to them in writing by the committee of the district, chosen to superintend the building or purchasing of such school house, are hereby authorized and empowered to determine on the place where such school house shall be erected or located.

If district cannot agree where school house is to be placed, selectmen, &c. may decide.

[Approved March 15, 1821.]

CHAPTER CXVIII.

An Act directing the method of laying out, and making provision for the Repair and Amendment of Highways.

SEC. 1. *BE it enacted by the Senate and House of Representatives, in Legislature assembled,* That when a new highway from town to town, or place to place, shall be wanting, or where an highway already laid out, stated and established, may or can with greater convenience be turned or altered, upon application made to the Court of Sessions within the same county, and it being determined by them to be of common convenience or necessity, to have such new way laid out, or old way altered, due notice of such application having before such adjudication been given to the towns interested, the said Court are hereby authorized and empowered by warrant under the seal thereof, to appoint a committee

Court of Sessions to lay out highways, adjudged necessary, after due notice given,

by committee of 3 or 5 freeholders; who

are to give notice, &c. to lay out such highway; which committee shall give reasonable notice to all persons interested, of the time and place of their meeting; and they shall be under oath to perform the said service, according to their best skill and judgment, with most convenience to the public, and least prejudice or damage to private property. And they shall ascertain the place and course of said highway in the best way and manner they can: which having done, they or the major part of them, shall make return thereof, under their hands, to the next Court of Sessions to be held in the same county, after the said service is performed, that the same may be accepted, allowed and recorded, and afterwards known for a public highway: *Provided always*, That if any person be damaged in his property by the laying out or altering such highway, the town where the same is, shall make such person or persons reasonable satisfaction, according to the estimation of the committee, or the major part of them, who laid out the same: and said committee, are empowered and required, under oath, to estimate the same and make return thereof as aforesaid. And if any person shall be aggrieved by the doings of the said committee in estimating damages, he may apply to the Court of Sessions, provided such application be made to the said Court that shall be held in the same county next after the acceptance of such return, and said Court is hereby empowered to hear and finally determine the same by a new committee, if the person complaining and the agent for the town in which the highway is laid out can agree thereon, or by a Jury under oath, if the person complaining desire the same: which Jury shall be summoned and attended by the Sheriff of such county or his deputy, or if he or either of his deputies be a party or interested, by a Coroner of said county: and shall be selected in manner following, to wit: The officer who shall be duly authorized by said Court, shall make application to the Selectmen of two or more disinterested towns in said county, who shall draw out of the jury box of their respective towns so many jurors as such officer shall require, not exceeding nine from any one town; and if by accident or challenge, there should happen not to be a full Jury, said officer shall fill the panel *de talibus circumstantibus*, as in

and to be under oath

to make return to the next Court.

Committee to estimate damages, &c. and report the same.

Persons aggrieved, &c. may apply to next Court for a new committee, or Jury.

Manner of selecting such Jury.

other cases. And such officer shall make return of his own travel and attendance and that of each juror. And if the Jury or committee agreed upon as aforesaid, who are to be under oath, shall not increase the damages, the person complaining shall be at all the costs incurred on that occasion, to be taxed against him by said Court, otherwise such costs shall be paid by the county, and the increase of damages shall be paid by the town in which such highway is located.

Proceedings of such jury or committee.

Costs how taxed, and increase of damages paid.

SEC. 2. *Be it further enacted*, That if the right or interest of any complainant in, or to the real estate alleged to be damaged by the laying out of such highway shall be denied by the town or corporation complained against, the Jury summoned, or committee agreed on as aforesaid, shall have authority to consider and determine such question of right or interest so far only as respects the damages of said complainant.

SEC. 3. *Be it further enacted*, That committees and jurors that shall assess damages occasioned by laying out any highway, shall give the owner of said land a reasonable time to take off the wood, timber or trees: and if the owner of such land shall neglect to take off said wood, timber or trees, within the time set by said committee or Jury, it shall be forfeited for the benefit of the road.

Time allowed to owner to take off wood, &c.

Forfeited if not taken off.

SEC. 4. *Be it further enacted*, That the verdict of such Jury, or the report of the committee agreed upon as aforesaid being made under their hands to said Court, and by them accepted and recorded, shall conclude the person or persons complaining with respect to the damages.

Verdict or report to be final.

SEC. 5. *Be it further enacted*, That when two or more persons have occasion to apply to any Court of Sessions at the same time for joint or several damages occasioned by the laying of the same highway, they may join in the same complaint, and their respective claims of damages shall in that case, be considered and determined by the same Jury or committee, and the costs shall be taxed jointly or severally as the Court in their discretion may determine to be equitable.

Persons injured may join, or sever, in complaints for damages.

SEC. 6. *Be it further enacted*, That if any town or other corporation shall find themselves aggrieved by the doings

Towns and corporations aggrieved may

apply for new committee or jury in same manner, as individuals.

of a committee of the Court of Sessions in any county, in estimating damages by virtue of this Act, such town or corporation may apply to said Court, and be allowed a jury or committee to hear and finally determine their complaint, in the same manner, under the same limitations and conditions, as are provided in this Act in the case of an individual person.

When owners of land and corporation both apply for Jury, same Jury to try both complaints, &c.

SEC. 7. *Be it further enacted,* That when any person shall be aggrieved by the doings of a committee in estimating damages, and shall apply to the Court having jurisdiction in this behalf, and the town or corporation shall apply in like manner, and both applications are or shall be pending before the same Court, then the same Court may hear and finally determine both applications, by one and the same jury or committee, and not by two several juries or committees: and the party whose complaint shall appear to have been without just cause, shall be at all the costs incurred on that occasion, to be taxed against him by the Court: and the verdict of the jury or the report of the committee agreed upon, being made under their hands to the said Court, shall be final.

Court of Sessions may order payment of damages;

and if not paid issue warrant of distress.

SEC. 8. *Be it further enacted,* That the Court of Sessions may order the payment of such sum or sums of money as shall be assessed in damages to be paid by any town, in consequence of this Act, out of the treasury thereof: and in default of payment after a reasonable time, may levy the same by warrant of distress upon the personal property of the inhabitants, to the use and benefit of the person or persons to whom the damages may be awarded.

Selectmen may lay out town and private ways;

to be approved by the town.

Towns may discontinue or alter such ways.

SEC. 9. *Be it further enacted,* That the Selectmen of the several towns in this State, are hereby authorized and empowered, either personally or by such person or persons as they shall appoint, to lay out town or private ways for the use of such town only, or for one or more individuals thereof, or proprietors therein; but no such town or private way shall be established until the same has been reported to the town at some public meeting of the inhabitants held for that purpose, and by them approved and allowed. And any town may alter or discontinue any town or private way when it shall appear that the same is unnecessary for the inhabitants of

such town. And if any person or persons, who are owners of the land through which such way shall be laid out, be injured thereby, he or they shall receive such recompense as the party injured and the Selectmen shall agree upon, to be paid by the town or person or persons for whose use the said way is laid out; or in case of disagreement, as shall be ordered by the Court of Sessions upon an inquiry into the same by a special committee, if the parties agree thereto, or by a jury to be summoned and selected in the manner prescribed by the first section of this Act. And such committee or jury shall assess damages for the injured party to be paid by such town or person or persons as aforesaid.

Damages to persons injured to be paid as agreed by selectmen and such persons, or settled by jury, &c.

SEC. 10. *Be it further enacted*, That if the Selectmen shall unreasonably delay, or refuse to lay out or cause to be laid out, any such private way, as before described, being thereunto requested in writing by one or more of the inhabitants or proprietors of land in such town, then the Court of Sessions for the same county, at any session thereof within one year, if the request appear to them reasonable, may cause the same private way to be laid out at the cost of the persons applying, by a committee of three disinterested freeholders, which committee shall estimate the damages occasioned thereby (if any there be) as well as ascertain the place and course of the said private way; the damages to be paid by the town, if it be of general benefit, otherwise by the person or persons for whose use and benefit the way is laid out; and the Justices of the respective Courts of Sessions upon application to them made by any party aggrieved at the continuance of any private way, may order and direct a discontinuance thereof, after notifying and hearing the parties interested therein, if they shall thereupon adjudge and determine such discontinuance reasonable.

If selectmen refuse or delay to lay out such way, what proceedings to be had.

SEC. 11. *Be it further enacted*, That when any town shall unreasonably delay or refuse to approve and allow of any private way laid out by the Selectmen thereof or their order, and put the same on record, any person or persons aggrieved by such delay or refusal may apply to the Court of Sessions for the same county, within twelve months after such refusal or delay; and the same Court after hearing the town thereon, may accept and approve of the said private

If towns refuse or delay unreasonably to approve such ways, &c. proceedings in such cases.

way, as laid out by the Selectmen, and direct the same to be recorded in the town book; or they may order the private way petitioned for, to be laid out by a committee of three disinterested freeholders to be by them appointed for that purpose, which committee shall be under similar directions and obligations as to locating and estimating the damages occasioned thereby, as in this Act is prescribed for a committee in locating or altering a county highway.

• Court to allow reasonable time for opening highway,

not exceeding 12 months, unless, &c.

If towns neglect their duty, proceedings to be had.

All highways to be kept in repair.

Surveyors to be annually chosen and sworn.

Selectmen to assign limits to surveyors.

SEC. 12. *Be it further enacted*, That when any new highway shall be laid out and accepted by the Court of Sessions, a reasonable time shall be allowed to the town through which such highway shall lead to make it passable, safe and convenient for travellers and others passing with their teams, waggons, or other carriages: *Provided*, That such time shall not exceed twelve months from the time of such acceptance; unless such Court shall for reasons specially given, order a longer time. And if any town shall neglect their duty in that respect the said Court, on application therefor, shall appoint a committee of three disinterested freeholders in the same county, to enter into any contract or contracts for making such new highway passable as aforesaid, the expense of which shall be immediately afterwards defrayed by the delinquent town, and in default thereof, the said Court shall issue a warrant of distress against such town.

SEC. 13. *Be it further enacted*, That all highways, town ways, causeways and bridges, lying and being within the bounds of any town, shall be kept in repair and amended from time to time, that the same may be safe and convenient for travellers with their horses, teams, carts and carriages, at all seasons of the year, at the proper charge and expense of the inhabitants of such town (where other sufficient provision is not made therefor) and there shall be chosen two or more suitable persons, in each town, at the annual meeting in March or April, who shall be denominated surveyors of highways, to be notified and sworn in like manner as other officers of the same town, and in case of refusal to serve shall forfeit and pay the sum of ten dollars, to the use of such town: *Provided* no person shall be held and obliged to serve more than one year in three years. And it shall be the duty of the Selectmen of the several towns within this State, be-

fore the first day of May annually, to assign in writing, to the several surveyors, their divisions and limits for making and repairing the highways, which assignments the said surveyors are directed to observe; and whenever any town shall elect the Selectmen surveyors of highways, they shall be authorized to delegate said power in writing to such person or persons as they may deem proper. And each town, at some public meeting of the inhabitants thereof, regularly notified and warned, shall vote and raise such sum of money, to be expended in labour and materials on the highways, as they shall determine necessary for the purpose. And the Assessors shall assess the same on the polls and ratable estate, personal and real, of the inhabitants, residents and non-residents of their town, as other town charges are by law assessed, and deliver to each surveyor a list of the persons and the sums at which they are severally assessed for his limits; and two thirds of the sum at least which shall be agreed upon and granted by any town for making or repairing the highways, shall be laid out and expended for that purpose before the first day of July next after granting the same; and the surveyor shall give reasonable notice (in writing if desired) to each person in his list of the sum he is assessed to the highways, and also to the inhabitants within his district assessed as aforesaid, forty eight hours notice, (extraordinary casualty excepted) of the times and places, he shall appoint for providing materials and labouring, to the end each person may have opportunity to work on the highway in person or by his substitute, or with his oxen, horses, cart and plough, at the rates and prices the town shall affix to such labour, to the full amount of the sum at which he is assessed, or he may pay the surveyor in money the sum he is assessed, in which case the surveyor shall carefully expend the sums thus paid, in labour and materials for repairing the highways in his limits, according to his best discretion. And when the highways are blocked up or incumbered with snow, the surveyor shall forthwith cause so much thereof to be removed or trodden down as will render the roads passable, and in such way and manner as the town shall direct at their annual meeting; and in case of any sudden injury to bridges or highways he shall, without delay

Towns to raise money for repairing roads;

to be assessed as other town charges.

Two thirds to be expended before July 1st.

Surveyor to notify those in his district.

To clear roads blocked with snow.

and repair bridges, &c. suddenly injured.

To render an account to the assessors at the end of his term.

Deficient sums to be inserted in next assessment of town taxes.

Power of surveyors in removing obstructions and obtaining materials.

Proviso, limiting surveyor's power.

When sum assessed is not sufficient, duty and power of surveyor.

cause the same to be repaired. And the surveyor, at the expiration of his term, shall render to the Assessors for time being, a list of such persons as shall have been deficient, (if any such there be) in working out their highway rate, or otherwise paying him the sum assessed therefor; which deficient sums shall by the Assessors be put in a distinct column, in the next assessment for the town tax, and collected by the Constable or Collector thereof, as other town taxes are collected, and paid into the town treasury for the use of the town.

SEC. 14. *Be it further enacted,* That the surveyors, thus chosen and sworn, shall have full power and authority to cut down, lop off, dig up and remove all sorts of trees, bushes, stones, fences, rails, gates, bars, inclosures, or other matter or thing that shall any way straiten, hurt, hinder, or incommode the highway, and also to dig for stone, gravel, clay, marle, sand or earth, in any land not planted or inclosed, and the materials thus dug up to remove to such place or places in the highways, for the repair and amendment thereof as they shall determine necessary: *Provided always,* That no surveyor of highways shall cause any water course occasioned by the wash of any highway to be so conveyed by the side of such highway as to incommode any person's house, store, shop, or other building, or to obstruct any person or persons in the prosecution of his or her business or occupation, without the approbation and consent of the Selectmen of such town or other place signified in writing to such surveyor: and any person or persons who may consider him or herself to be aggrieved by such water course, may complain to the Selectmen of such town or other place: and the Selectmen on receiving such complaint, shall proceed to view such water course so complained of, and after attending to the circumstances of the same, shall if they think it reasonable, direct such surveyor to alter the said water course in such way and manner, as they shall think just and proper.

SEC. 15. *Be it further enacted,* That when the sum appropriated and assessed for the repair of the highways in the limits of any particular surveyor shall not fully answer, or be insufficient for that purpose, it shall be lawful for the

surveyor, with the consent of the Selectmen, or the major part of them, where such deficiency happens, to employ such of the inhabitants of the town, upon the repair of the ways in his limits, as shall make up that deficiency: and the persons thus employed shall be equitably paid out of the town treasury therefor, or the town may authorize the surveyor to agree with the persons employed, that for such labour they shall be allowed on the next highway tax, or otherwise compensated, as the town may have prescribed.

SEC. 16. *Be it further enacted*, That every town may at their annual meeting, or any meeting warned for that purpose, authorize their surveyors, or any other person or persons to enter into any contract or contracts for making or repairing the highways within the same or any part thereof; and may also empower their surveyors of highways to collect taxes for making and repairing the ways which shall not be paid in labour or otherwise within the time limited by law, or such periods as may be agreed upon by such town, and for that purpose the Assessors shall deliver to them warrants of distress which shall be in form prescribed by law for collecting other town taxes, *mutatis mutandis*; or they may deliver to the Collector or Collectors of taxes a warrant for collecting the deficiency in any highway tax which the Collector is hereby empowered and required to levy in the same way and manner as other taxes are by law to be collected, and pay the same over to the surveyor or surveyors, who shall be held to account with the Selectmen for the expenditure thereof. And if any money shall remain unexpended in the hands of the surveyor or surveyors after the expiration of their office, they shall pay the same to the town Treasurer. And if any surveyor shall neglect to pay over such sums to the said Treasurer upon demand, the said Treasurer, or his successor in that office, shall have power to recover the same, in an action upon the case, with twenty per cent. in addition thereto, to the use of the town, with costs of suit: and if pending the action, another town Treasurer shall be appointed, he, on noting his appearance on the record, shall have power to pursue the same action to final judgment and execution. And if any surveyor who shall receive his rate bill of the Selectmen or Assessors of

Towns may authorize surveyors to make contracts for repair of highways,

and to collect taxes, &c.

Assessors may deliver to surveyors, warrants of distress, or to collectors of taxes.

Money unexpended to be paid into town treasury.

Penalty for surveyor neglecting to pay over surplus, &c.

or neglecting

to exhibit his rate bill to se-

lectmen in July annually.

any town shall neglect to exhibit the same to them on the first Monday of July annually, and also at the expiration of the term for which he shall be appointed, and at those times respectively to render an account of all monies that have been expended on the ways, he for each offence shall forfeit and pay twenty dollars, to be recovered in an action of debt with costs of suit by the said Treasurer to the use of the town.

Counties and towns liable to pay damages to persons injured by badness of roads.

SEC. 17. *Be it further enacted,* That if any person shall lose a limb, break a bone, or receive any other injury in his person, or in his horse, team or other property, through any defect or want of necessary repair and amendment of any highway, causeway or bridge; the person or persons injured thereby shall and may recover of the county, town, the person or persons who are by law obliged to keep the same highway, causeway, or bridge in repair, in case they had reasonable notice of the defect, double the damages thereby sustained by a special action of the case, before any Court proper to hear and determine the same:

Penalty in case of life lost.

And if the life of any person shall be lost through the deficiency of the way, causeway or bridge, or for want of rails on any bridge, the county, town, or persons who are by law obliged to repair and amend the same, shall be liable to be amerced in the sum of three hundred dollars, to be paid to the executor or administrator of the deceased for the use of his heirs, upon a conviction before the Circuit Court of Common Pleas, or Supreme Judicial Court, on a presentment or indictment of the Grand Jury.

Mode of recovery.

When towns are fined for bad roads, surveyor, in whose district it lies, answerable to the town:

SEC. 18. *Be it further enacted,* That in case the inhabitants of any town shall be fined upon the presentment of the Grand Jury, or upon the information of the Attorney General, or the person acting for the State in his absence, for a deficiency in the highways, the surveyor, within whose limits the deficient ways are, shall be liable to refund the same, with all costs, to the said inhabitants, upon an action of the case to be brought therefor, or the surveyor of highways may be prosecuted on presentment of information as aforesaid, and fined for any deficiency that may arise in his limits:

provided the fault or neglect is on his part.

Provided, Such deficiency shall arise from the negligence of the surveyor in not duly expending the money in his bills, or in not giving notice of such deficiency to the Selectmen

in case the sum raised for the repair of the highways by the town, shall be found insufficient for that purpose.

SEC. 19. *Be it further enacted*, That the several towns in this State having a population of eight hundred inhabitants, at any public legal meeting of the inhabitants thereof regularly notified and warned for that purpose, may vote to raise any sum of money, to be laid out for the making and repairing of highways in said towns, as they may deem necessary: and may by a vote of said towns, if they see fit, direct the same to be assessed in money on the polls and ratable estate real and personal of the inhabitants, residents and non-residents of their town, as other town charges are by law assessed, and the same to be committed to the Collector of taxes for said town, to be collected and paid as other town charges are collected and paid.

Towns may raise money necessary for highways.

and direct how it may be assessed, and collected.

SEC. 20. *Be it further enacted*, That all fines imposed by the Supreme Judicial Court, or by the Circuit Court of Common Pleas within this State, or any town for any neglect in making or repairing any highways or bridges within the same, shall be appropriated and disposed of, for the making and repairing the highways and bridges so defective as aforesaid.

Fines imposed, to be expended in making and repairing roads, &c.

SEC. 21. *Be it further enacted*, That the Supreme Judicial Court or the Circuit Court of Common Pleas shall, at the Session when any such fine shall be imposed as aforesaid, appoint one or more person or persons to superintend the collection and appropriation of the same for the purposes aforesaid; whose duty it shall be to attend to the collection of such fine, and the appropriation thereof in manner aforesaid; and shall make return of his or their doings therein to the Court, that may have imposed said fine, whenever thereto by them required.

Courts may appoint agents to superintend collection and expenditure of fines,

and make return of their doings, to the Courts.

SEC. 22. *Be it further enacted*, That the inhabitants of plantations who are or shall be empowered and required to assess taxes upon themselves towards the support of government, or for defraying the charges of any county, shall be vested with like powers, be under the like obligations, and liable to like penalties, so far as such powers, obligations and penalties have any relation to the making, repairing or amending the highways, and for compensating any individ-

Plantations to have same powers and liabilities as towns, in regard to highways.

Like proceedings to be had in regard thereto.

Highways through unincorporated places to be made and repaired at the expense of proprietors,

unless Court of Sessions deem it unreasonable: Proceedings in such case.

Praviso as to ministerial lands, &c.

On application to Court of Sessions to lay out such road.

Notice to be given by newspapers.

ual who may suffer damage by laying out any highway as the towns within this State have, are under or subject to; and like proceedings shall be had by and against such plantations as may be had by or against said towns, in every case respecting the highways, *mutatis mutandis*. And the Assessors of such plantations shall be held to perform all the duties required of the Selectmen of towns relating to highways and invested with the same powers.

SEC. 23. *Be it further enacted*, That all highways laid out or hereafter to be laid out through any tracts of land in this State, not comprehended within the bounds of any incorporated town or plantation aforesaid, shall be made passable and convenient for travelling and kept in good repair by the owners or proprietors of the said tract of land, township or plantation, unless in the judgment of the Court of Sessions for the county in which such lands lie, it may be deemed unreasonable; in which case the same shall be done at the expense of the county, or partly at the expense of the county and partly at the expense of proprietors, as the said Court shall order. And all the proprietors or owners of such tracts of land, townships or plantations last mentioned, shall be held to pay their proportion, according to their interest of all cost and expenses of making and repairing the ways aforesaid through any part of the tracts, townships or plantations last mentioned: *Provided nevertheless*, That all lands reserved for the use of the first settled Minister, the ministry, schools, or for the future appropriation of the Legislature in the said tracts, plantations and townships last mentioned, shall be, and hereby are exempted from all taxes for making and repairing highways therein.

SEC. 24. *Be it further enacted*, That the Courts of Sessions in the several counties in this State, whenever application shall be made to them to lay out any new highway through any such tract, township or plantation last mentioned, or for an order thereof to amend and repair any highway already laid out in the same, the said Court shall cause notice thereof to be given, by publishing the substance of such application three weeks successively in one of the newspapers printed in the town of Portland, and such other paper as the said Court shall direct, in order

that the proprietors of said lands may appear before said Court, at such time as the Court shall therein prefix, and show cause why such highway should not be laid out or amended, as the case may be. And if such proprietors do not appear and show cause, to the satisfaction of said Court, that such highway ought not to be laid out or made, or amended at the expense of said proprietors, then the said Court may proceed to lay out such highway in the manner prescribed by law, and to order the same to be made or amended at the expense of the said proprietors, as the case should require; and shall cause an assessment to be made on such tracts of land, township, or plantation, at so much per acre as they shall judge necessary for making or mending such highway and defraying the necessary expense attending the same; and the proprietors of the said tracts, townships, or plantations last mentioned, where the lands therein are held in severalty shall be severally assessed their respective proportions in every tax which may be ordered for making or repairing the highways therein: *Provided*, Such proprietors shall previously furnish said Court with proper documents for that purpose; and the Treasurer of the county wherein the land so assessed may lie, shall forthwith cause such tax to be advertised in manner aforesaid, requiring each and every owner or proprietor of any part of the tract, township or plantation last mentioned, to pay said tax; or if the assessment is made in severalty, his part thereof to said Treasurer within six months from the first publishing said advertisement, and notifying such proprietors, that unless the same shall be paid within the time specified, so much of the said land will be sold at public vendue, at a certain day and place in the said advertisement to be expressed: And when any proprietor or owner of any part of such tract, township or plantation last mentioned, (the parts thereof not being severally assessed) shall pay his proportion of such tax, he shall take a receipt therefor, describing the land for which he shall pay such tax, and so much of the remaining part of such land for which said tax shall not be paid before the expiration of the said six months, shall be sold by the Treasurer aforesaid, or his successor in office, or such committee as the Court of Sessions aforesaid

On default, &c. of proprietors, Court to lay out road and assess the lands, &c. Mode of assessing.

County treasurer to advertise the tax:

how lands are to be sold, and when, after being advertised, and taxes not paid.

Vendue may be adjourned,

shall appoint for that purpose, at the time and place set forth in the advertisement, as may be necessary to pay the remaining part of said tax, with incidental charges. And the said Treasurer or committee are hereby authorized to adjourn the time of sale of such land from day to day, if he or they shall judge it necessary, not exceeding three days, and make a good and sufficient deed or deeds of such lands, allowing the same time of redemption, and subject to the payment of the like interest as is by law allowed in the cases of land sold for taxes; and the money so raised shall be applied by said Court, or by a committee to be by them appointed for that purpose, to make and repair said highways:

Similar proceedings to be had for repairing such highways.

And a similar method shall be taken from time to time by said Court for keeping in repair all highways leading through such tracts, townships or plantations last mentioned, in case the owners thereof shall neglect to keep said highway in sufficient repair. And the owners and proprietors of any such tract, township or plantation last mentioned, are hereby authorized to call meetings for the purpose of raising such sums of money as they may judge necessary for making and repairing such highways, and for choosing officers for assessing and collecting the same.

Proprietors of such lands, may call meetings, raise money, &c.

Any person may remove nuisances in highways.

SEC. 25. *Be it further enacted,* That it shall be lawful for any person to pull down and remove any gates, rails, bars or fence upon or across any highway or county road, unless such gate, bars or fence have been erected or continued by the leave and license of the Court of Sessions for the same County; and if any such incumbrance be in or across any private way, the same may be removed by the order of some Justice of the Peace of the same county, unless the gate or bars were erected or continued by the leave of the town or the person or persons for whose particular use and benefit the private way was laid out: And any person aggrieved by the removal of such gate, bars or fence, shall be relieved at the Court of Sessions for the same county; if upon examination it shall appear, that the same were erected or continued by license or leave, as aforesaid. And when any logs, lumber or other obstructions shall, by any person be unnecessarily placed or left on any highway, it shall be the duty of the surveyor within whose limits the same may

Any person aggrieved by such removal may apply to Sessions.

Duty of surveyor to remove obstructions in highways.

be so placed, or left, or in his absence, of any other surveyor within the town forthwith to remove the same: and the person so removing the same shall not be liable for any loss or damage happening thereto by such removal, unless such loss or damage was occasioned by gross negligence or design: and on conviction of any person having obstructed any highway in manner aforesaid, before any Court of competent jurisdiction, he shall be punished by a fine not exceeding five dollars to the use of the State, and double the expense of the removal of such obstruction, to the use of the person who shall have removed the same, or such person may recover the double of such expense to his own use in an action on the case: *Provided nevertheless*, That nothing in this Act shall be so construed as to give power to any surveyor or other person to remove or pull down any fence which may be lawfully set up or erected upon or across any way for the purpose of preventing the spreading of infectious disorders.

Penalty for obstructing highway by logs, lumber, &c.

Proviso, as to fences set up for preventing spread of infectious disorders.

SEC. 26. *Be it further enacted*, That when any building, fence or other incumbrance, erected or continued on any town or private way, or on any public highway, a common training field, burying place, landing place or other piece of land, appropriated for the general use, ease or convenience of the community at large, or the inhabitants of any county, or town, shall by any Court, having cognizance thereof, be adjudged and determined a nuisance, and ordered to be abated, in case the materials of such building, fences or other incumbrance, upon a public sale thereof at auction, shall be insufficient to pay the costs and charges of prosecution and removal; the Court from whence the process for removal shall issue, shall and may order the deficient sum to be raised and levied from the goods and chattels of the person or persons who shall be convicted of erecting or continuing the same.

Buildings, fences, &c. being, adjudged nuisances by Court, may be removed.

Expense of removal how to be defrayed.

SEC. 27. *Be it further enacted*, That where buildings or fences have been erected fronting upon, or against any training field, burying place, common landing place, highway, private way, street, lane, or alley in any town in this State, where from length of time or otherwise the breadth or quantity thereof is not known, or cannot be made certain by the

Buildings, fences, &c. fronting on certain public grounds, where the true bounds cannot be known, after 40 years standing are

to be considered the true bounds.

In other cases sixty years prescription necessary to justify continuance of fence, &c.

records, or by any other boundaries; and such buildings or fences have been upheld, maintained and continued for more than forty years, such fences or buildings shall be deemed and taken to be the true ancient boundaries thereof; but no length of time (under three score years) shall justify the continuance of a fence or building on any town or private way, or on any public highway, a common training field, burying place, landing place or other piece of land appropriated for the general use, ease or convenience of the community at large, or for the inhabitants of any particular county, town, or parish, but the same may be removed by order of the Circuit Court of Common Pleas, or the Supreme Judicial Court, as a nuisance, upon the presentment of a Grand Jury.

[Approved March 2, 1821.]

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CHAPTER CXIX.

An Act for enabling Proprietors of Private Ways and Bridges to repair them in equal proportion.

How meetings of such proprietors are to be called.

SEC. 1. **BE** it enacted by the Senate and House of Representatives, in Legislature assembled, That when and so often as any number of the proprietors and rightful occupants of any private way or bridge, where there are four, or more than four of them, shall judge a proprietors' meeting necessary, three of them applying to a Justice of the Peace within and for the county where the said way or bridge lies, such Justice is hereby authorized and empowered to grant a warrant for calling the same; or otherwise one fourth part of the said proprietors may, of themselves, call such meeting; in either case to be done by warrant under the hand of the said Justice, posted up in some public place or places, in the town or towns where the said proprietors and rightful occupants live respectively, seven days at least before the time appointed for such meeting, signifying the time, place and business thereof; and the major part of the proprietors and rightful occupants so assembled, shall have full power to determine by a major vote on any other way of calling meetings in future, and to choose a Clerk and surveyor, who shall be sworn to the faithful discharge of their

May agree on the mode of calling future meetings and choose clerk and surveyor—to be sworn.